

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 11-20129

Case No. 11-20066

-v-

SCOTT WILLIAM SUTHERLAND, D-1,
PATRICK MICHAEL MCKEOUN, D-4,
JEFF GARVIN SMITH, D-5/D-1,
PAUL ANTHONY DARRAH, D-6/D-2,
CARY DALE VANDIVER, D-7/D-5,
VINCENT WITORT, D-8,
DAVID RANDY DROZDOWSKI, D-17,

Defendants.

JURY TRIAL, VOLUME XXV

BEFORE THE HONORABLE ROBERT H. CLELAND
United States District Judge
Theodore Levin United States Courthouse
231 West Lafayette Boulevard
Detroit, Michigan
Monday, December 8, 2014

APPEARANCES:

FOR THE PLAINTIFF: SAIMA MOHSIN
ERIC STRAUS
U.S. Attorney's Office
211 W. Fort Street, Suite 2000
Detroit, MI 48226

JEROME MAIATICO
United States Department of Justice
1301 New York Avenue, NW
Washington, DC 20005

FOR THE DEFENDANT: CRAIG A. DALY
(Sutherland, D-1)
615 Ford Building
Suite 820
Detroit, MI 48226

1 APPEARANCES: (Continued)

2 FOR THE DEFENDANT: SIDNEY KRAIZMAN
3 (McKeoun, D-4)
4 1616 Ford Building
5 Detroit, MI 48226

6 JEROME SABBOTA
7 (Smith, D-5/D-1)
8 26862 Woodward Avenue
9 Suite 200
10 Royal Oak, MI 48067

11 PATRICIA A. MACERONI
12 (Darrah, D-6/D-2)
13 26611 Woodward Avenue
14 Huntington Woods, MI 48070

15 MARK A. SATAWA
16 (Vandiver, D-7/D-5)
17 3000 Town Center, Suite 1800
18 Southfield, MI 48075

19 KIMBERLY W. STOUT
20 (Witort, D-8)
21 370 East Maple Road, Third Floor
22 Birmingham, MI 48009

23 BYRON H. PITTS
24 535 Griswold, Suite 1630
25 Detroit, MI 48226-4218

PHILLIP D. COMORSKI
535 Griswold
2632 Buhl Building
Detroit, MI 48226

RYAN H. MACHASIC
(Drozdowski, D-17)
134 Market Street
Mount Clemens, MI 48043

To Obtain a Certified Transcript Contact:
Christin E. Russell

RMR, FCRR, CRR, CSR - (248) 420-2720

Proceedings produced by mechanical stenography.
Transcript produced by computer-aided Transcription.

I N D E X

JURY TRIAL, VOLUME XXV

PAGE

WITNESSES FOR THE GOVERNMENT:

WILLIAM GIBES

DIRECT EXAMINATION BY MS. MOHSIN	9
CROSS-EXAMINATION BY MR. PITTS	55
CROSS-EXAMINATION BY MR. SABBOTA	59
REDIRECT EXAMINATION BY MS. MOHSIN	61

CHARLES HIGGINS

DIRECT EXAMINATION BY MS. MOHSIN	64
CROSS-EXAMINATION BY MS. STOUT	201
REDIRECT EXAMINATION BY MS. MOHSIN	244
RECROSS-EXAMINATION BY MS. STOUT	254

KENNETH DEAN JOHNSON

DIRECT EXAMINATION BY MR. STRAUS	257
----------------------------------	-----

E X H I B I T S

Government's Exhibits:

Page

Exhibit 11-1	15
Exhibit 11-35	30
Exhibit 11-56	34
Exhibits 11-4 - 11-22	38
Exhibit 11-263	54
Exhibits 28, 29, 32	173
Exhibits 11-81 through 11-99	191
Exhibits 11-101 through 11-119	191
Exhibits 11-144, 146, 150, 153, 155	193
Exhibits 11-37, 69, 44 through 51	201

CERTIFICATE OF REPORTERS

242

1 Detroit, Michigan

2 December 8, 2014

3 9:00 a.m.

4 * * *

5 (Call to Order of the Court; all parties present.)

6 THE CLERK: Calling Case 11-20129 and 11-20066, United
7 States of America vs. Scott Sutherland, et al.

8 THE COURT: Good morning, Counsel. The Court
9 recognizes the presence of all defendants and all attorneys.
10 The jury is waiting. It's nine a.m., and we're prepared for
11 the final week or weeks of Government presentation, as I
12 understand it. There are matters, I am informed also to take
13 up before we proceed with the jury.

14 MS. MOHSIN: Very briefly, your Honor. It's a
15 housekeeping issue. Last week, early last week, I believe, on
16 Tuesday, I did notify defense counsel that we've sort of
17 slashed witnesses. We expect that we're going to be done
18 earlier than the break that we -- we had talked about
19 previously. But we took the opportunity last week, the
20 Government did, to assess the case and assess the witnesses.

21 So I did put them on notice that to the extent that
22 there are any defense witnesses, that they should be prepared
23 for next week. We may go into early next week with one or two
24 more witnesses, perhaps. You know, but in an excess of
25 caution, we thought it would be appropriate to let them know

1 that to the extent there may be days of court time, jury time,
2 that they ought to have witnesses ready.

3 We have not received any witness list. We did receive
4 information from Ms. Stout last night that there may be
5 witnesses that they want us to produce that we haven't called.
6 It would be helpful to know who those witnesses are, so that if
7 we have to bring them here, whether they are incarcerated or
8 they are out of state, that we can do that expeditiously and
9 not waste any more of the jury's time.

10 So I just wanted the Court to be aware of it. We did
11 let them know early last week of the circumstance about the
12 possibility of us finishing early.

13 THE COURT: Very good.

14 We also need to schedule in, or incorporate within the
15 intended schedule opportunities for Rule 29 presentation. I am
16 going to need to make findings, certain *Vincent* and *Enright*
17 findings, of course. And there may be other things in wrapping
18 up that we're going to need non-jury time for. Everyone
19 understands, I'm sure, the need for that.

20 Also, I am going to want to ask counsel to
21 collaborate, all of you, to try to map out as best you can an
22 intended or expected schedule for final argument, length of
23 time, order of presentation, and a map that is not going to be
24 handcuffing anybody necessarily, but something that we're going
25 to be able to, to discuss and to lay out days of work. And

1 that's probably going to be in the first week in January, based
2 on what I'm hearing here this morning. So let's bear that in
3 mind as well, please.

4 So what else do we have before we bring the jury out
5 for the next witness?

6 MS. STOUT: Thank you, your Honor.

7 Quickly, Ms. Mohsin is correct. But what I'm going to
8 ask of this Court is that we be allowed to begin our case first
9 day of January if, in fact, they rest next week and we are able
10 to finish Rule 29, jury instructions, and everything else.

11 If we could perhaps call a witness or two of theirs
12 that they are not calling. But the problem is we don't know
13 that complete list for the next two weeks yet who they are not
14 calling, because there may be witnesses from that list that we
15 choose. Doug Smith, for instance, may be one of them. That's
16 an example. So we're kind of unsure of how to proceed.

17 And my witnesses, I know if we're going to call
18 anybody, it's going to be from California because that's where
19 my client is from. We have to fly them in. So I would like
20 the Court to consider that in the scheduling process.

21 THE COURT: I'm going to give you, I'm going to give
22 you something right off the cuff. I'm very dubious about
23 blanking out additional days in advance of the two weeks that
24 we already have scheduled. I'm doubtful about that. But go
25 ahead.

1 MS. STOUT: Okay. I just wanted to indicate to you
2 that I, I don't know who they have up next week, so I don't
3 know who --

4 THE COURT: And I will, I will --

5 MS. STOUT: Thank you.

6 THE COURT: I will encourage Government counsel to be
7 just as, just as fully forthcoming about that in an effort to
8 solidify the schedule.

9 MS. MOHSIN: We have. Beginning on Tuesday,
10 Wednesday, Thursday, I provided notice of the witnesses we were
11 calling both this week and into next week. And then I followed
12 up with witnesses that we were not planning to call with an
13 e-mail that provided that information.

14 I have made requests --

15 THE COURT: Okay.

16 MS. MOHSIN: -- to find out who they intend to call,
17 so that if we're not going to call them and we have made a
18 decision, either now or at a later date, that we can have that
19 witness available.

20 THE COURT: Would you favor, would you favor the Court
21 with a copy of the e-mails you sent?

22 MS. MOHSIN: Certainly.

23 THE COURT: Thank you. And I'll be able to have that
24 on the bench for discussion purposes.

25 MS. MOHSIN: Yes, your Honor.

1 THE COURT: Thank you. Anything else before we bring
2 the jury in?

3 Seeing nothing else. All right, then let's call the
4 jury in and greet them this morning, please. Do you have your
5 first witness here?

6 MS. MOHSIN: We do.

7 THE COURT: Okay.

8 (Jury in, 9:06 a.m.)

9 THE COURT: Good morning. All right. Be seated,
10 please. Again, all attorneys and parties are present. The
11 jury is assembled. And the lawyers are probably going to
12 wonder what the uniform of the day is. It's, it's just in the
13 spirit -- it's not the uniform of the day; it's the spirit of
14 the season. It's a little Santa Claus button that's been
15 distributed to the jury. I thank them for our copy and maybe
16 some of the attorneys would have children or grandchildren that
17 might appreciate those, if extra copies are available.

18 All right. So your next witness then, Ms. Mohsin, is?

19 MS. MOHSIN: It is Deputy William Gibes of the Pima
20 County Sheriff's Department.

21 (Witness is sworn.)

22 THE COURT: Right up here in the witness box, sir, and
23 be seated. Pull the chair up so that it's allowing you to get
24 close to the microphone.

25 And I'm going to tell you one thing that I am going to

1 do with this, with the experience we've had with witnesses
2 here. I'm getting a new microphone that is, that's not for the
3 witness box, that is not pinned down into just one location.
4 It's going to be more, much more portable possibly than
5 wireless. That's been a bit of a headache for everyone, I
6 know, attorneys on every side of the case and for the jurors.

7 Okay. Go ahead, please, Ms. Mohsin.

8 WILLIAM GIBES

9 called as a witness at 9:08 a.m., testified as follows:

10 DIRECT EXAMINATION

11 BY MS. MOHSIN:

12 Q. Good morning.

13 A. Good morning.

14 Q. Sir, can you please state your full name, spell your last
15 name, tell the members of the jury by whom you are employed?

16 A. My name is William Paul Gibes. My last name is spelled
17 G-I-B-E-S. And I am employed as a deputy sheriff with the Pima
18 County Sheriff's Department in Arizona.

19 Q. Sir, how long have you been a deputy sheriff with the Pima
20 County Sheriff's Department?

21 A. Since 1995.

22 Q. And prior to being a deputy sheriff, what did you do for a
23 living?

24 A. I was a correction officer for the Pima County Sheriff's
25 Department.

1 Q. For approximately how long?

2 A. Since 1989.

3 Q. Now, when you say that you are a deputy sheriff for the
4 Pima County Sheriff's Department, what type of work do you do?
5 In other words, are you someone in uniform or someone who does
6 something different than that?

7 A. I have been a patrol officer my entire career, in uniform.

8 Q. Is that a patrol officer in a marked vehicle?

9 A. Yes, it is.

10 Q. And it clearly designates that it's a police vehicle?

11 A. Yes.

12 Q. And do you wear a uniform, sir?

13 A. Yes, I do.

14 Q. Now, during the course of your career, were you assigned to
15 one locale within Arizona or multiple locales?

16 A. Multiple locations.

17 Q. And is this in a particular area of Arizona where Pima
18 County is located?

19 A. It's the southern third of the state.

20 Q. And when you say "the southern third of the state," does
21 that share a border, an international border with Canada -- I'm
22 sorry, with Mexico?

23 A. Yes, it does.

24 Q. And so when you say that, that you've been assigned to
25 multiple different locales, were any of those locales closer to

1 the border between the United States and Mexico?

2 A. Yes, there was.

3 Q. And I want to direct your attention now to approximately
4 April of 2003. Were you employed as a deputy sheriff at that
5 time?

6 A. Yes, I was.

7 Q. And what was your assignment then?

8 A. I was assigned as a patrol deputy for the Green Valley
9 district.

10 Q. Now, the Green Valley district is within Pima County?

11 A. Yes, it is.

12 Q. And could you describe what that district looks like, as
13 far as the borders of it, north, south, east, west?

14 A. The north border would be the Tohono O'odham Indian
15 Reservation. The south border, in part, goes all the way down
16 to the border of Mexico, near the border town of Sasabe,
17 Arizona. The western border would be the Baboquivari mountain
18 range, which also borders the Tohono O'odham Indian
19 Reservation. And the eastern border would be the east side of
20 the Santa Rita mountains.

21 Q. Now, the area that you've just described, the Green Valley
22 district, is that the area that you were responsible for
23 patrolling?

24 A. Yes, it is.

25 Q. And about how long were you involved in patrolling that

1 particular area?

2 A. Approximately five years.

3 Q. And where are you currently assigned?

4 A. I am assigned in the San Xavier district.

5 Q. Is that north of the Green Valley district?

6 A. Yes, it is.

7 Q. So I want to direct your attention now to the Green Valley
8 district, where you were in April, or approximately April of
9 2003. What is the population like in that particular area that
10 you've described, the Green Valley area?

11 A. It's mainly a retirement community, 55 or over.

12 Q. And is that in the locale of Green Valley itself?

13 A. Yes.

14 Q. Now, when you start talking about Santa Rita mountains,
15 which you described were on the eastern part of your patrolling
16 district, how well populated is that particular area?

17 A. It's very sparsely populated with small ranches.

18 Q. And are these small ranches, you know, few and far between,
19 so to speak?

20 A. Yes, they are.

21 Q. And what is the, the terrain?

22 A. In the Santa Rita mountains, it's very rocky, hilly
23 terrain.

24 Q. And has it been called a desert at any time?

25 A. Yes, it has.

1 Q. And is there a particular area within that desert or that
2 locale within the Santa Rita mountains that you are familiar
3 with called Box Canyon?

4 A. Yes, I am.

5 Q. And can you tell the jury a little bit about what Box
6 Canyon looks like?

7 A. Box Canyon has extremely steep cliffs. The roadway leading
8 through Box Canyon is a dirt mining road that is maintained on
9 a, not a regular basis, but sparsely maintained. There are no
10 side roads leading off into the mountainous area or terrain.
11 So the only way to navigate through Box Canyon is on the
12 designated road from east to west.

13 Q. And you indicated that this is not a particularly regularly
14 maintained road. Is this a paved road or some other road?

15 A. No. It is a dirt road.

16 Q. It's a dirt road?

17 A. Yes.

18 Q. Now, the area that you've described within Box Canyon, how
19 does one access that area from a freeway?

20 A. From the nearest freeway would be Interstate 19, which runs
21 from Tucson down to the Nogales port of entry. You would have
22 to get off on -- in the Green Valley area, Whitehouse Canyon
23 Road, which runs to the east, and that road eventually will
24 split into two -- into a "Y." You take it to the left, it will
25 turn into Box Canyon Road.

1 Q. So you indicated that it connects Tucson with Nogales. Is
2 Nogales the border between the United States and Mexico?

3 A. Yes.

4 Q. And when you say that you turn off of that interstate or
5 that freeway onto White Canyon Road, approximately how far of a
6 distance from the freeway is Box Canyon Road?

7 A. It could be approximately 20 miles. It's a very windy
8 road.

9 Q. And when you get into the Box Canyon Road itself, how
10 populated is that particular area?

11 A. Box Canyon is actually in a national forest, and there is
12 no -- there are no residents that I'm aware of up there.

13 Q. And are there residences outside of the Box Canyon itself?

14 A. Yes, very few small ranches.

15 Q. Very few small ranches.

16 Now, as part of your duties as a patrol deputy in this
17 Green Valley district, were you responsible for patrolling this
18 particular area?

19 A. Yes, I was.

20 Q. And in light of the fact that there were not a lot of
21 people there, what was the purpose of your patrolling the area?

22 A. The area is used for a corridor of drug and human
23 smuggling. At that time, I was currently working a midnight
24 shift and we had to find a lot of our own work. There wasn't a
25 whole a lot of traffic to be looked at. So we would pick

1 different areas throughout the night or during our shift to
2 search for drugs or human-smuggling operations. And this was
3 one of the area that we had found drugs and human smuggling
4 occurring in.

5 Q. And so is this an area that was regularly assigned to you
6 to patrol?

7 A. Yes.

8 Q. Now, you indicated that it's between Tucson and Mexico.
9 How far, roughly, from the Mexican border is that turnoff on
10 that interstate?

11 A. Approximately 20 miles, 25 miles.

12 Q. And I want to direct your attention now to proposed
13 Government's Exhibit 11-1.

14 MS. MOHSIN: Your Honor, I believe there's no
15 objection to Government's proposed Exhibit 11-1. And for that
16 reason, the Government would move to admit it at this time.

17 THE COURT: That appears to be a map?

18 MS. MOHSIN: It is a map, your Honor.

19 THE COURT: Without objection, it is received.

20 (Exhibit 11-1 received, 9:16 a.m.)

21 BY MS. MOHSIN:

22 Q. Deputy Gibes, before I publish Government's Exhibit 11-1,
23 are you familiar with the Devils Diciples Motorcycle Club?

24 A. Yes, I am.

25 Q. In April of 2003, were you familiar with that motorcycle

1 club?

2 A. Yes, I was.

3 Q. In the course of your duties as a deputy sheriff, had you
4 ever encountered individuals from that club?

5 A. Not in the Green Valley area, no.

6 Q. Just had you ever encountered Devils Diciples members?

7 A. I've seen them riding in town. I've never actually
8 encountered them in my work.

9 Q. All right. Did you have any understanding of where their
10 clubhouse was located, if any?

11 A. Yes, I did.

12 Q. And was that in Tucson itself?

13 A. Yes, it is.

14 Q. Now, prior to testifying here today, did you have a chance
15 to look at a map?

16 A. Yes.

17 Q. I'm going to show you what's been admitted as Government's
18 Exhibit 11-1. Sir, do you recognize that?

19 A. Yes, I do.

20 Q. Using the laser pointer in front of you, you've just got to
21 not put it in your eye, point out where the interstate is.

22 A. This is Interstate 19 going north and south. (Pointing).

23 Q. And is Tucson referenced on this map?

24 A. Yes. It's right in here. (Pointing).

25 Q. And is this Green Valley district also referenced on this

1 map?

2 A. Yes. Green Valley would be right in this area here.
3 (Pointing).

4 Q. Now, there's an indication on the map that indicates Green
5 Valley, 8401 East Box Canyon Road. Is that approximately the
6 area that you had previously described --

7 A. Yes.

8 Q. -- of the Box Canyon Road?

9 A. Yes.

10 Q. All right. And where is the national forest there?

11 A. Everything in green in this mountainous area would be
12 national forest.

13 Q. All right. Thank you.

14 Now, I want to direct your attention to approximately
15 April 27th through April 28th of 2003. Were you working in
16 Green Valley at that time?

17 A. Yes, I was.

18 Q. And were you working a midnight shift on that occasion?

19 A. Yes, I was.

20 Q. So when you say that you were working a midnight shift,
21 would that have started on the 27th and ended on the 28th?

22 A. That's correct.

23 Q. What were your hours of work?

24 A. Ten p.m. to six a.m.

25 Q. So ten p.m. on the 27th, to six a.m. on the 28th?

1 A. That's correct.

2 Q. Did there come a time where you were led to that location
3 that we just showed on the map, on Box Canyon Road?

4 A. Yes.

5 Q. Could you describe for the jury the circumstances that led
6 to your being called to that location?

7 A. We were dispatched to a call in that location of a motor
8 vehicle accident. And we were advised that subjects had walked
9 away from the accident and made contact with one of the
10 ranchers, small ranches in the area. And we were to respond to
11 his location to assist in the accident scene.

12 Q. Now, on that date, you're a uniformed deputy sheriff; is
13 that an accurate statement?

14 A. Yes.

15 Q. Were you in a marked police vehicle?

16 A. Yes, I was.

17 Q. And when you say "we," were you working alone in your
18 vehicle?

19 A. My vehicle, I was working alone. There were two other
20 deputies working in that district at that time.

21 Q. And those two other deputies were there, were they also
22 working alone in their vehicles; in other words, one deputy per
23 vehicle?

24 A. Yes.

25 Q. So were you the first person to arrive at the location?

1 A. No, I was not.

2 Q. What, what approximately was that location?

3 A. I'm sorry?

4 Q. Where were you told to respond to?

5 A. The 8400 block of Box Canyon Road.

6 Q. And is that just outside of the national forest?

7 A. Yes.

8 Q. And when you arrive there, do you remember approximately
9 what time and date you would have arrived at that location?

10 A. It would have been just prior to eleven p.m. on the 27th.

11 Q. Now, this is April of a year. What, what kind of daylight
12 hours were, were common around that time of year in Arizona, in
13 that part of Arizona, I should say?

14 A. I would say probably around 6:30, around sunrise, 6:30,
15 sunset around seven, seven p.m.

16 Q. So when you arrive there close to 11 p.m. on April 27th,
17 has the sun set?

18 A. Yes.

19 Q. And how well lit is that particular area?

20 A. There is no lighting.

21 Q. And so when you arrive there, is there already a deputy
22 that's responded?

23 A. Yes.

24 Q. Who is that person?

25 A. Deputy Gifford.

1 Q. And is that Deputy Gifford, what's his first name?

2 A. Doug. Douglas.

3 Q. And was that someone you had worked with in the past?

4 A. Yes.

5 Q. When you arrived there, what did you see?

6 A. Deputy Gifford was standing outside of an ambulance. I
7 walked up to Deputy Gifford and he advised me the subjects were
8 already in the ambulance. He also told me at that time that
9 this does not appear to be just an accident.

10 MR. PITTS: Objection to the hearsay, your Honor.

11 MS. MOHSIN: It's not offered for the truth, your
12 Honor.

13 THE COURT: It's not offered for the truth, it's not
14 hearsay. It's background information only. The jury will
15 accept it as such, or analyze it as such.

16 Proceed.

17 THE WITNESS: He told me that, I'm sorry, that he did
18 not believe this was not -- or this was just an accident scene.
19 There was other circumstances.

20 BY MS. MOHSIN:

21 Q. Now, you indicated that the subjects were in an ambulance.
22 Did you see an ambulance?

23 A. Yes, I did.

24 Q. And did you go inside the ambulance?

25 A. No, I did not.

1 Q. What, what was your understanding about who and how many
2 subjects there were?

3 A. I was advised there were two subjects inside the ambulance.

4 Q. And this was information provided to you by Deputy Gifford?

5 A. Yes.

6 Q. And after you received that information, you indicated that
7 he said he didn't think it was just an accident.

8 A. That's correct.

9 Q. So what information did he provide you and what did you do
10 with that information?

11 A. He advised me that he believed the subjects were part of a
12 Devils Diciples motorcycle gang and he believed they had been
13 beaten and not been in an accident.

14 Q. And so based upon that information, did he tell you whether
15 he believed or had reason to understand there may be more
16 victims?

17 A. Yes. He told me there may possibly be at least two other
18 victims somewhere in this area.

19 Q. Now, at the time that you encountered Deputy Gifford, was
20 there any other person or persons present, other than the two
21 individuals that he had described in the ambulance, and of
22 course, the ambulance?

23 A. No.

24 Q. And what happened next? Did the ambulance leave? Did it
25 stay? What happened with the ambulance?

1 A. The ambulance was prepping to be -- to leave with the
2 subjects. And Deputy Gifford actually went in search for other
3 victims, and I waited until the ambulance actually left the
4 scene.

5 Q. Do you have any understanding, based upon the radio
6 communications that were occurring, how long Deputy Gifford had
7 been on the scene?

8 A. Based on the radio log, probably around 30 to 40 minutes,
9 probably before me.

10 Q. So you arrived there closer to eleven?

11 A. Yes.

12 Q. So would it be fair to say that based on your
13 understanding, he had been there perhaps 20 after ten?

14 A. That's about the time he was dispatched. And I'm not sure
15 where he started from when he went en route to the call.

16 Q. So he was dispatched, from the radio communications --

17 A. Correct.

18 Q. -- at 10:20 p.m.?

19 A. Mh-hmm.

20 Q. Now, you indicated that the ambulance remained there
21 preparing to leave and Deputy Gifford moved on?

22 A. Yes. He went further east down the Box Canyon Road.

23 Q. So what you described earlier is that the Box Canyon Road
24 travels from really White Canyon Road and a freeway in an
25 east/west direction?

1 A. That's correct.

2 Q. And he traveled further away from the highway; is that
3 correct?

4 A. Yes.

5 Q. And then what did you do?

6 A. After the ambulance -- well, as the ambulance was leaving,
7 Deputy Gifford advised me that he had found another subject.

8 Q. And where did Deputy Gifford -- where was he when he told
9 you this; do you know?

10 A. He was approximately a quarter mile east of our location,
11 where the ambulance was leaving.

12 Q. And is that traveling in the direction of that national
13 forest?

14 A. Yes.

15 Q. And did you -- what did you do next?

16 A. I responded to his location to assist him.

17 Q. How long after he told you he had found another victim was
18 it before you were able to respond to that location?

19 A. Minutes.

20 Q. And were you in your vehicle?

21 A. Yes, I was.

22 Q. Now, you said that you traveled approximately a quarter of
23 a mile east; is that a fair statement?

24 A. Yes.

25 Q. What do you do when you get to where Deputy Gifford is?

1 A. I get out of my vehicle. At that time, I saw the subject
2 was sitting in the back seat of Deputy Gifford's patrol
3 vehicle. And Deputy Gifford was speaking with the subject.

4 Q. And did you have an opportunity to speak with the subject
5 as well?

6 A. I did not speak with him. I, I stood by while he was
7 speaking with Deputy Gifford.

8 Q. And were you able to listen to what was going on?

9 A. Yes.

10 Q. And at this point, did you have an understanding of where
11 this subject had come from?

12 A. Yes.

13 Q. What was that understanding?

14 A. The roadway at this location on one side is a steep cliff;
15 the other side is a ravine. He had crawled up from that ravine
16 towards the roadway --

17 MR. PITTS: Objection.

18 MR. SABBOTA: Your Honor, I'm going to object. This
19 is hearsay.

20 MR. PITTS: And there's no foundation.

21 THE COURT: It is offered for background, presumably,
22 for what the deputy did next?

23 MS. MOHSIN: Yes, it is, your Honor.

24 THE COURT: The jury will receive it as such. It's
25 not hearsay and it's not -- therefore, briefly, ladies and

1 gentlemen of the jury, a statement such as this indicating that
2 the individual had climbed up a ravine and so forth is offered
3 simply to show what the deputy knew or thought he knew in
4 preparation for what it was he did next, and what he observed
5 and so forth. It's not offered to prove that anybody climbed
6 up the face of a ravine. That's not, that's not the purpose of
7 this kind of statement and, therefore, it's not hearsay.

8 If it were being offered in an attempt to prove the
9 fact or the asserted fact that somebody climbed up the face of
10 a ravine, it probably would be hearsay. But it's not, because
11 it's just background in this instance.

12 MS. MOHSIN: It is.

13 THE COURT: Please proceed.

14 MS. MOHSIN: Yes, your Honor.

15 BY MS. MOHSIN:

16 Q. Deputy Gibes, your understanding was that he had climbed up
17 that ravine; is that an accurate statement?

18 A. Yes.

19 Q. Now, I want you to describe for the jury what this
20 individual looked like when you first observed him.

21 A. He had a bloody face. His hair was disarray. He had dried
22 blood in his -- on his face and in his hair. His clothes were
23 dirty and tattered. And I don't recall seeing the injuries to
24 his face, but he appeared to be in a state of disarray, his
25 clothing and his face and hair.

1 Q. Now, when you arrived at this location, was Deputy Gifford
2 engaged in this conversation with this individual?

3 A. Yes.

4 Q. Did there come a time that, based upon the communications
5 that you were listening to, that you went down that ravine?

6 A. Yes.

7 Q. Can you tell the jury what happened then? What did you do?

8 A. After I was told that he, that he -- or I had learned that
9 he had come up from the ravine, I walked to the edge of the
10 ravine and looked down. And I could see an object that didn't
11 fit the surrounding ground. It was black in color. And I went
12 down to investigate what it was I was looking at down there.

13 Q. And did you, in fact, go down there?

14 A. Yes, I did.

15 Q. And can you describe the, the steepness, if any, of where
16 this ravine, like what it looked like and how steep it was?

17 A. At this point, it's extremely steep. I would guess a
18 60-degree downward incline, rocky, with cactus and other
19 shrubbery growing out of the sides of the hill.

20 Q. Now, you indicated that there was some object that did not
21 appear to be -- to belong, so to speak?

22 A. That's correct.

23 Q. How were you looking at this object?

24 A. From the roadway looking straight down, I could see it
25 while I illuminated it with my flashlight. And what I was

1 seeing is a brown background of the desert dirt, some boulders
2 or rocks which were greyish in color. And right in the middle
3 of that is a solid black object.

4 Q. Now, how was the climb down to this object? Was it
5 difficult? Was it easy?

6 A. It was not easy. You had to watch your step, taking --
7 while you were going down so you would not fall and trip.

8 Q. Now, when you went down there, how long, approximately, did
9 it take you to get down to this particular location where the
10 black object was?

11 A. Probably 35 or 30 minutes -- 30 seconds to a minute.

12 Q. Thirty seconds to a minute?

13 A. Yes.

14 Q. When you got down there, what did you see?

15 A. I found the black item was a holster for a -- a leather
16 holster for a pistol.

17 Q. Now, at this point, did there come a time when you found --
18 withdrawn.

19 Did you conduct a search of that area at that time, or
20 at some later time?

21 A. At that time.

22 Q. And was there anyone at the location there at the time that
23 was taking photographs?

24 A. Not at that time, as I was discovering this.

25 Q. So when you were discovering it, were you just looking?

1 A. Yes.

2 Q. So what did you do next?

3 A. I started looking around, in a circular pattern from the
4 holster and found several other items and evidence which I
5 believed belonged to this case.

6 Q. Now, you had indicated earlier that you had observed this
7 individual inside of the vehicle.

8 A. Yes.

9 Q. Did you see anything on his hands when you had observed him
10 in the vehicle?

11 A. Yes. It appears he had what I described as a cable tie
12 tied around his wrist.

13 Q. A cable tie, something that -- like a binding of some kind?

14 A. Yes. It's a plastic tie, zip-tie that's used to hold
15 cables or wires together.

16 Q. Now, did there come a time where someone came to assist you
17 from the, from the Pima County Sheriff's Department for the
18 purposes of evidence recovery?

19 A. Yes.

20 Q. Can you tell the jury about that before we move on to
21 another topic.

22 A. Okay. I requested a -- or I believe that Deputy Gifford
23 requested a forensic technician to respond based on what our
24 findings were. An employee, one of our forensic technicians, a
25 Steve Berenbaum, responded to collect evidence as photographs

1 and any other assistance he could give us.

2 Q. And were you present when those photographs were taken by
3 Berenbaum?

4 A. Yes, I was.

5 Q. And did you have an opportunity to look at any of the
6 pictures that were later developed, or I don't know what the
7 word would be for digital photos, but --

8 A. Yes.

9 Q. -- produced? Yes.

10 And were those, in fact, items that you had observed
11 down in, in that particular ravine?

12 A. Yes, they are.

13 Q. Now, the items that you had seen and that had been
14 photographed, did you recover them or seize them as evidence?

15 A. Yes, I did.

16 Q. And what did you do with those items?

17 A. They were placed into an evidence locker in the Green
18 Valley district and eventually placed into the property and
19 evidence control building for the Pima County Sheriff's
20 Department.

21 Q. Now, after this evidence is found, and after this
22 individual is, is located, did you participate in a search for
23 other individuals, or become aware that a search was required?

24 A. Yes, I was.

25 Q. And can you tell the jury a little bit about that?

1 A. We were advised that there was one, possibly two other
2 victims still out in the field. And so while Deputy Gifford
3 was handling this victim, myself and a third deputy, Juan
4 Carlos Navarro, also began searching for the fourth or fifth
5 victim in the area.

6 Juan Carlos was west of us on Box Canyon Road and I
7 continued east on Box Canyon Road until I reached the summit of
8 the mountain range. At that point, it was approximately two
9 miles. I did not find any evidence or other people so I turned
10 around and came back towards where Deputy Gifford was located.

11 Q. And at this point, Deputy Gifford, was he still speaking
12 with the individual that he had found in that ravine?

13 A. Yes, he was.

14 Q. And did you become aware of whether or not any medical
15 assistance had been sought for this individual?

16 A. Yes. There was an ambulance en route to transport him.

17 Q. Now, I want to show you proposed Government's Exhibit
18 11-35.

19 MS. MOHSIN: Your Honor, based upon agreement by
20 counsel, we would move for the admission of 11-35, a
21 photograph.

22 THE COURT: 11-35, without objection, is received.
23 (Exhibit 11-35 received, 9:34 a.m.)

24 MS. MOHSIN: Okay. Would you please publish 11-35?

25 BY MS. MOHSIN:

1 Q. Deputy Gibes, I would ask you to take a look at
2 Government's Exhibit 11-35 and tell me if you recognize this
3 picture.

4 A. Yes, I do.

5 Q. And what do you recognize this picture to be?

6 A. This is the subject that was sitting in the back of Deputy
7 Gifford's patrol vehicle that he had located on Box Canyon
8 Road.

9 Q. All right. Thank you.

10 Now, after you returned from the summit of that
11 particular mountain, what did you do next?

12 A. While I was heading back down towards where Deputy Gifford
13 was located, I was advised by Deputy Navarro that he had found
14 a fourth person walking on the road west of our location.

15 Q. And so what did you do in response to learning that a
16 fourth victim had been found?

17 A. I responded to assist Deputy Navarro.

18 Q. And when you say you responded, are you driving at this
19 point?

20 A. Yes, I am.

21 Q. And can you give the jury a sense of time here? How much
22 time has elapsed? Is it minutes? Is it hours?

23 A. Between?

24 Q. Between the time that you were at the summit and when this
25 fourth victim is found. In other words, not the time it took

1 you, but how much time has elapsed since you first arrived.

2 A. Just minutes, probably five or ten minutes, maybe.

3 Q. How long have you been in the Box Canyon responding to this
4 incident at this point? Do you have a sense of that?

5 A. At this point, probably an hour and a half to two hours.

6 Q. All right. So roughly in the area of one a.m. --

7 A. Yes.

8 Q. -- perhaps? Twelve to one a.m.?

9 A. That's correct.

10 Q. Now, when you see this, when you respond to Deputy Navarro,
11 you indicated he was west of where the last individual depicted
12 in 11-35 was located?

13 A. That's correct.

14 Q. Did you go to that location?

15 A. Yes.

16 Q. And what did you see when you arrived?

17 A. Upon my arrival, there was -- the ambulance that was
18 requested for the subject that Deputy Gifford was handling was
19 driving up the road. The subject that Deputy Navarro was with
20 was lying on the ground. He was shaking like he was having a
21 seizure. He was unresponsive. He wouldn't talk.

22 At that time, that ambulance crew actually stopped at
23 our -- this location to assist with this victim because he was
24 worse off than the -- or the subject that Deputy Gifford was
25 dealing with.

1 Q. And so the ambulance that you just described had, in fact,
2 been responding to the third victim that had been found; is
3 that a fair statement?

4 A. That's correct.

5 Q. And it was diverted to assist the fourth victim; is that
6 correct?

7 A. Yes.

8 Q. And when you said that he was not responding, was he in
9 some state of unconsciousness?

10 A. Yes.

11 Q. What did the ambulance do at that point; do you know?

12 A. They prepped him to be transported. "Prepping" would mean
13 taking clothes off that they could take off of him, putting him
14 on a backboard, and which time they transported him further
15 down the mountain to an area where he was going to be airlifted
16 to a hospital.

17 Q. Now, you mentioned that he would be airlifted to a
18 hospital. Do you have an understanding of where the closest
19 hospital was to this location, 8401 East Box Canyon Road?

20 A. The closest locational hospital is approximately 30 to 40
21 miles away in Tucson.

22 Q. And was that the University Medical Center?

23 A. That's not the closest one. That's a trauma -- they have a
24 trauma center. So that's the closest trauma center.

25 Q. And where is the trauma center at the University Medical

1 Center?

2 A. In the emergency room.

3 Q. And where is that hospital located? Is it 30 to 40 miles
4 away or even further?

5 A. It's approximately 40 miles away.

6 Q. So that would be not the closest but certainly the closest
7 trauma?

8 A. Correct.

9 Q. Did you have an opportunity to observe the individual that
10 was found, the fourth individual that was found?

11 A. When he -- before he was transported, yes.

12 Q. And could you determine or could you see -- other than the
13 seizure and his non-responsiveness or unconsciousness, were you
14 able to see any visible injuries on him?

15 A. He appeared to have some head injuries.

16 Q. And --

17 A. He had some blood on his head.

18 Q. I'm going to direct your attention now to proposed Exhibit
19 11-56.

20 MS. MOHSIN: Your Honor, without objection from the
21 defense, the Government would move for the admission of 11-56.
22 It's a photograph.

23 THE COURT: Without objection, it is received.

24 (Exhibit 11-56 received, 9:39 a.m.)

25 MS. MOHSIN: Would you please publish 11-56?

1 BY MS. MOHSIN:

2 Q. Could you tell me if you recognize Government's Exhibit
3 11-56?

4 A. Yes, I do.

5 Q. And what do you recognize that to be?

6 A. This is the subject, the fourth victim we had located that
7 was lying on the ground where Deputy Navarro was at.

8 Q. All right. Thank you.

9 After the fourth victim was found, did you have any
10 information or belief that there may be, in fact, a fifth
11 victim?

12 A. Yes.

13 Q. And what was the basis of that information or belief?

14 A. It was based on the conversation between Deputy Gifford and
15 the third victim.

16 Q. Okay. And what did you do with that information?

17 A. We, we decided we would have to continue our search, take
18 every step we could take to ensure that there was a -- was or
19 was not a fifth victim.

20 This starts with a request for the Sheriff's
21 Department's fixed-wing aircraft that has an infrared scanning
22 system on it that allows us to see in the night. It was
23 requested, and flew down to our area approximately with ten
24 minutes of, ten minutes from the request.

25 Very quickly, the aircraft determined that his night

1 vision was not suitable for this type of search. Because of
2 the mountain range, he had to fly at an extremely high
3 altitude.

4 Our next step would be to request the Department of
5 Public Safety or Highway Patrol's helicopter, which also has
6 that same infrared night vision on it.

7 MR. PITTS: I would object to what "we're" doing. I
8 think we're interested in what this good officer -- the steps
9 he took.

10 THE COURT: Overruled. Overruled.

11 THE WITNESS: We waited for the Ranger helicopter to
12 arrive on scene. It has to launch. It's not flying all the
13 time.

14 Approximately 30, 40 minutes later, it arrived on
15 scene and conducted a search of the Box Canyon area for a fifth
16 subject. It searched for approximately 30 or 40 minutes
17 without any heat signatures being found, leading us to believe
18 there was no other victims in the field at this time.

19 BY MS. MOHSIN:

20 Q. Now, what are you, Deputy Navarro, and Deputy Gifford doing
21 while the air support is searching for a fifth victim?

22 A. We staged together, or we sit in a static location
23 together. If the aircraft finds a target, a heat signature,
24 then he can direct us into that location and we can check it
25 out. If it turned out to be nothing, we go back to a staging

1 area as to not confuse the spotter on board the helicopter.

2 Q. Did you conduct any search for this victim by driving or
3 walking?

4 A. No, I did not.

5 Q. And why not?

6 A. We were advised by the Ranger helicopter that their night
7 vision was effective in the area and they could not locate any
8 heat signatures in the area.

9 Q. Was there anything about the terrain that made it
10 particularly difficult from your point of view to conduct any
11 sort of search and rescue?

12 A. A vehicle search would not be accomplished other than on
13 the Box Canyon Road due to the terrain and the lack of forestry
14 roads. It's not an off road -- even though I was driving a
15 four-wheel-drive, I could not drive my vehicle off road at this
16 location.

17 Q. I want to direct your attention now to a series of
18 photographs. Proposed Government's Exhibits 11-6, 7, all the
19 way -- I'm sorry, 11-6 through 22. And I would like to amend
20 that. It's going to be 11-4 through 11-22.

21 MS. STOUT: No objection.

22 MS. MOHSIN: Your Honor, with agreement from counsel,
23 the Government would move for the admission of proposed
24 exhibits 11-4 through 11-22 inclusive.

25 THE COURT: All of that is correctly stated?

1 MR. SABBOTA: No objection.

2 THE COURT: I hear no objection. I see no objection.
3 And each exhibit is received.

4 (Exhibits 11-4 - 11-22 received, 9:44 a.m.)

5 MS. MOHSIN: Yes, your Honor. I'm going to publish
6 now proposed Exhibit 11-4.

7 BY MS. MOHSIN:

8 Q. Could you please describe what's depicted in 11-4?

9 A. Yes. This is a photograph of the Box Canyon Road and the
10 area that we were currently working in on this night.

11 Q. Now, I want to ask you a question about the weather in
12 April of 2003. I'm sure it's different than the weather in
13 Detroit. Can you describe for the jury what the weather is
14 like in this region during that time period, day versus night
15 as well?

16 A. In April, it's very mild. Probably high 70's, low 80's
17 during the day, and probably mid 50's to mid 60's at night.

18 Q. Directing your attention now to the right side of that
19 particular photo, is that the type of road that leads into and
20 around the Box Canyon?

21 A. This is actually Box Canyon Road, this road here. It runs
22 all the way through the mountains.

23 Q. Directing your attention to 11-5. Can you describe what's
24 depicted in this photo?

25 A. Yes. This is actually the same road, just a zoomed-in

1 picture of it, showing the terrain and the angle that we were
2 dealing with from the ravine that night.

3 Q. And how wide is the road itself? Is it, is it easy for two
4 cars to pass comfortably?

5 A. Two cars can pass not comfortably. It's approximately 20
6 feet wide.

7 Q. Directing your attention now to 11-6. Have you seen that
8 before?

9 A. Yes, I have.

10 Q. Can you tell the jury what that is?

11 A. This is a photo card that is taken before photographs were
12 taken of evidence at a crime scene.

13 Q. And do you recognize the technician that's referenced
14 there?

15 A. Yes. This is, this is forensic technician Berenbaum's
16 card.

17 Q. Directing your attention now to 11-7. Are you familiar
18 with this?

19 A. Yes, I am.

20 Q. Could you tell the jury what's depicted?

21 A. This is a picture standing on Box Canyon Road looking down
22 towards the location that the third victim was -- where he was
23 located crawling out of.

24 Q. Is this photograph taken contemporaneously with the events
25 that unfolded in those hours on the 27th and 28th?

1 A. Yes.

2 Q. And I want to direct your attention to 11-7. I'm sorry, 8.

3 Can you describe what's depicted in this photo?

4 A. This is the same, at the same location. The camera was
5 just turned clockwise slightly and taken, a second picture was
6 taken.

7 Q. Directing your attention to 11-9. Can you describe what's
8 depicted in this photo?

9 A. This is the black gun -- leather gun holster I had seen and
10 eventually recovered.

11 Q. Now, there are a number of rocks that are depicted in this
12 photo; is that a fair statement?

13 A. Yes.

14 Q. I want to direct your attention now to some of those rocks.
15 Was there any other item of evidence -- evidentiary value
16 that's depicted in this particular photograph that you can
17 point out for the jury?

18 A. Yes, I could. Just above the gun holster right here is a
19 section of duct tape that had blood and hair on it. These
20 boulders up here have blood, dried blood, on them as well.

21 Q. All right. And is some of that blood depicted there?

22 A. Yes.

23 Q. Now, that duct tape, is it photographed later? Are we
24 going to show that photo later?

25 A. Yes.

1 Q. Directing your attention now to 11-10. Can you describe
2 what is depicted in this particular photo again?

3 A. Yeah. This is -- at the lower corner is the gun holster.
4 Right above it is the duct tape. Up in this area are the
5 boulders with the blood on it.

6 Q. Directing your attention to 11-11. Please describe what's
7 depicted.

8 A. This is a closer shot of this last picture of the duct tape
9 with the blood on it. This is the boulders with the dried
10 blood on it. (Pointing). And in this corner here is what
11 appears to be vomit with blood in it.

12 Q. Now, the boulders that are depicted, are those unique to
13 this particular ravine or are these similar to other parts of
14 the Box Canyon?

15 A. This is like the granite-type rock, and it's seen
16 throughout this area. I should also point out that also right
17 in this area here, there is a pair of brass knuckles that was
18 recovered.

19 Q. Okay. 11-12. Can you describe that, please?

20 A. This is a close-up picture of the boulders that's showing
21 dried blood on this area here, on the ridge of this boulder
22 here, and down in the lower position of this rock.

23 Q. And is there some more on the right side of the screen as
24 well?

25 A. Yes, there is, right down on this rock here. (Pointing).

1 Q. Okay. 11-13?

2 A. This is a close-up picture of that ridge rock that shows
3 the blood running up this ridge and also along this ridge of
4 this rock here.

5 Q. 11-14?

6 A. This is a close-up picture of the main boulder that shows a
7 large portion of dried blood. It shows dried blood on this,
8 two places, of this stone, also on the lower portion of this
9 stone here, and a small drop back in here. And --

10 Q. Deputy -- I'm sorry. Deputy Gibes, these photos again, all
11 of them were taken contemporaneously when you searched that
12 area and called an evidence technician in?

13 A. Yes.

14 Q. 11-15?

15 A. This is a close-up picture of the gun holster and the -- it
16 shows in reference how far the duct tape with the hair and
17 blood was located on it, or near how close to it, it was.

18 Q. 11-16?

19 A. This is a close-up picture of the duct tape with dried
20 blood and hair on it.

21 Q. 11-17?

22 A. This is a close-up picture of the brass knuckles and what
23 appears to be vomit with blood in it.

24 Q. Okay. And then 11-18?

25 A. This is a close-up picture of what appears to be vomit with

1 blood in it.

2 Q. 11-19?

3 A. This is a picture of a leather strap that was tied into a
4 double loop that was located approximately 10 feet away from
5 all the other objects that I had located. It didn't, didn't --
6 there was no reason for it to be there. It was made out of
7 what appears to be the same type of leather I had found on the
8 leather gun holster. Therefore, I collected it, had it
9 photographed and collected it.

10 Q. Now, I want to direct your attention to 11-21.

11 A. This is --

12 Q. Can you -- go ahead.

13 A. This is a photograph of the road from while we're standing
14 on the roadway. Right in this location here, there was a small
15 rock, which I described in my report as the size of a baseball
16 that was covered in dried blood.

17 Q. Okay. And were there other sort of drops of blood leading
18 from that to another direction?

19 A. Yes, there was. They were in that area leading towards
20 the, towards the wash.

21 Q. All right. And now I want to direct your attention to
22 11-22.

23 A. This is a close-up picture of that rock that had the dried
24 blood on it.

25 Q. And this is, again, on the roadway that we just saw in the

1 previous image?

2 A. Yes.

3 Q. And finally, 11-20?

4 A. This is a folding knife that was located just approximately
5 3 feet down the embankment from where that rock with the blood
6 was located at.

7 Q. So that was not found with the other items but closer to
8 the roadway; is that a fair statement?

9 A. That's correct.

10 Q. Now, while -- after these items are seized and
11 photographed, you indicated that they were put into evidence?

12 A. Yes.

13 Q. Prior to testifying here today, did you actually look at
14 those items again?

15 A. Yes, I did.

16 Q. Not just the photographs?

17 A. Correct.

18 Q. And I want to direct your attention to what happens next.
19 There is, there is four victims that have been found, a fifth
20 that has not been found; is that a fair statement?

21 A. Yes.

22 Q. After the fourth victim was taken to a location by
23 helicopter to a hospital, what happened to the third victim?

24 A. The third victim waited with Deputy Gifford for that third
25 ambulance to return to transport him after taking the fourth

1 victim down the hill.

2 Q. And did you see those victims again?

3 A. No, I did not.

4 Q. And when you were done searching for a fifth victim that
5 day, do you know about what time it was when you guys wrapped
6 up?

7 A. Approximately three o'clock. Three a.m.

8 Q. And what did you do at three a.m. at that point? Had you
9 found a fifth victim?

10 A. No, we did not.

11 Q. What did you do then at that point?

12 A. At that time, we decided our field operation was complete
13 for this investigation and we went for a meal break.

14 Q. Now, at three a.m., I don't know what you would call it,
15 dinner or lunch, or where do you go at three a.m. in that area
16 to have a meal break?

17 A. We went to a local casino, Indian tribal casino, due to the
18 fact it was only thing open in the area 24 hours a day.

19 Q. And where is that casino located?

20 A. It's located approximately 5 miles north of the Green
21 Valley area.

22 Q. Now, when you leave, is it still dark out?

23 A. Yes.

24 Q. Are there additional items that were left behind that were
25 photographed later?

1 A. Yes, there was.

2 Q. What were those items?

3 A. They were clothing from the fourth victim that had been cut
4 off by the ambulance crew before transporting him down the
5 hill.

6 Q. And so the clothing that had been cut off of that fourth
7 victim, do you have an understanding of why that clothing was
8 cut off?

9 A. My understanding is that trauma patients are prepped in the
10 field as much as possible, and one of those steps is to remove
11 as many clothing -- pieces of articles of clothing so that once
12 they are brought into the trauma center, doctors can
13 immediately start working on them.

14 Q. So the clothing that was cut off, was that -- or was that
15 what was left behind in Box Canyon?

16 A. Yes.

17 Q. Did you collect that evidence?

18 A. No, I did not.

19 Q. But did you see the clothing and the items before it was
20 later collected?

21 A. I did not see it before it was collected. I did not know
22 it had been left there.

23 Q. Okay. I want to direct your attention now to your break,
24 your meal break. You indicated that you left at about three
25 a.m., and at some point, you had a meal break.

1 Who were you going on a meal break with?

2 A. The other two deputies I work with, Deputy Gifford and
3 Deputy Navarro.

4 Q. And you indicated that you went to a casino. How far away
5 from the Box Canyon was your station house?

6 A. Approximately 20 miles by driving.

7 Q. And was that station house close to interstate I-19?

8 A. Yes, it is.

9 Q. And how far away was the casino then from the, the Box
10 Canyon area?

11 A. Probably 25 miles, I would guess. It's about 5 miles north
12 of our office.

13 Q. Now, is this the only casino in the area?

14 A. There's four casinos in the Tucson regional area.

15 Q. Okay. Is this one of those four?

16 A. Yes, it is.

17 Q. And are there other casinos that are closer to Tucson than
18 this particular casino?

19 A. The other three are closer to Tucson.

20 Q. And so how far was this casino from Tucson, would you say?

21 A. Approximately 15 miles.

22 Q. And it was south of Tucson?

23 A. Yes.

24 Q. Did this particular location have 24-hour restaurant
25 service or meal service?

1 A. Yes.

2 Q. So when you arrived at this casino to eat, how long were
3 you there?

4 A. Thirty to 40 minutes.

5 Q. And it was you and Deputy Navarro and Deputy Gifford?

6 A. Yes.

7 Q. What happened after you were finished eating?

8 A. While we were leaving the casino, we were walking through
9 the parking lot towards our vehicles, and we were passed by two
10 subjects with full beards. And we -- basically, what caught
11 our eye is the subjects were wearing Devils Diciples clothing
12 as they passed us. One was wearing a T-shirt, one was wearing
13 a baseball cap, both marked with Devils Diciples' markings on
14 them.

15 Q. Now, you indicated that you had left the Box Canyon area at
16 about three a.m.; is that a fair statement?

17 A. Yes.

18 Q. That would have been on April 28th of 2003?

19 A. That's correct.

20 Q. Approximately what time would you say you encountered these
21 two individuals with the Devils Diciples clothing?

22 A. Approximately four a.m., maybe a little bit after four a.m.

23 Q. And you indicated that you encountered them in the parking
24 lot. Was that the parking lot of the casino?

25 A. Yes.

1 Q. And you indicated you were walking out. Were these
2 individuals also walking out?

3 A. They were walking into the casino.

4 Q. And what were you wearing at the time?

5 A. We were all three wearing our uniforms.

6 Q. And were your patrol cars, your marked police patrol cars
7 also parked in that parking lot?

8 A. Yes, they were.

9 Q. Can you describe their demeanor, these two individuals,
10 when they walked past you?

11 A. There was no reaction at all. They passed us as if we were
12 not even there.

13 Q. Now, did it catch your attention?

14 A. Yes, it did.

15 Q. And were you the only one whose attention it caught from
16 your interactions with your fellow deputies?

17 A. No. We all three stopped in our tracks.

18 Q. And when you stopped in your tracks, why, why did you stop
19 in your tracks?

20 A. Because the subjects appeared to have affiliation with the
21 Devils Diciples motorcycle gang, and we had just handled a
22 major call that included members of that club within the last
23 hour or two we finished.

24 Q. Now, at that time, had you had any interactions with Devils
25 Diciples members in the Green Valley district?

1 A. No, I have not.

2 Q. And at that time, were there any events similar to or as
3 significant as what occurred on Box Canyon Road that night, in
4 your five years, in that area?

5 A. No.

6 Q. So when you saw these two individuals, did you and your
7 fellow deputies make a decision?

8 A. Yes, we did.

9 Q. What decision was that?

10 A. That we were going to follow them back into the casino and
11 attempt to gain photographs of these subjects.

12 Q. Now, how would you do that?

13 A. By contacting the security personnel at the casino.

14 Q. Were you aware that photographs might be available?

15 A. Yes.

16 Q. What was the basis of that awareness?

17 A. They have 24-hour surveillance cameras and also have the
18 capability of taking still photographs of, of location,
19 different locations in the casino.

20 Q. Now, did you do that?

21 A. Yes.

22 Q. Did you go back in?

23 A. Yes, we did.

24 Q. Now, were you able to observe whether these two individuals
25 were also going for a meal or do you know if they went in some

1 other direction?

2 A. They walked into the gaming area where the slot machines
3 are located.

4 Q. And what -- when you went back into the building, did you
5 go to the security area?

6 A. Yes, we did.

7 Q. What did you do when you got there?

8 A. We advised them what we were looking for and what we
9 wanted. And they were very courteous and able to provide us
10 with what we asked for, which were still photographs of the two
11 subjects we saw walk in, and they were able to review video to
12 allow us to know what vehicle the subjects drove to the casino
13 in.

14 Q. So did you watch the video with the security guys looking
15 for the two individuals you had seen?

16 A. Yes.

17 Q. And did there come a time where you or your fellow deputies
18 identified the individuals that you had seen?

19 A. Yes.

20 Q. And were photographs, in fact, or stills of those videos
21 taken?

22 A. Yes, they were.

23 Q. And were they taken in real time, in other words, as you
24 were observing these individuals inside the casino?

25 A. That's correct.

1 Q. And were copies or printouts or something provided to
2 you --

3 A. Yes.

4 Q. -- of the individuals that you had seen?

5 A. Yes.

6 Q. And did they have a date and time stamp?

7 A. Yes, they did.

8 Q. And was that an accurate date and time stamp based upon
9 your experience that evening?

10 A. Yes, it was.

11 Q. Did you also have information provided to you about a
12 vehicle?

13 A. Yes.

14 Q. What did you do with that information?

15 A. That information was given to Deputy Gifford, and he
16 actually did a once, a once check and a motor vehicle check on
17 the license plate on the vehicle.

18 Q. Did you actually go to look at the vehicle?

19 A. Yes, we did.

20 Q. And did you go as well?

21 A. Yes.

22 Q. And what did you see when you saw the vehicle? Describe
23 it.

24 A. We saw a red pickup truck with a New Mexico license plate
25 on it. I looked in the bed of the vehicle and I saw what I

1 described as ramps that can be used to attach to the back of a
2 vehicle and allow a motorcycle to drive up into the bed of the
3 vehicle.

4 Q. Now, after these photographs were taken from the security
5 personnel at this casino, were they provided to you and your
6 fellow deputies?

7 A. Yes.

8 Q. And were they logged into evidence?

9 A. Yes, they were.

10 Q. And have you had an opportunity to look at them before you
11 testified here today?

12 A. Yes, I did.

13 Q. Did you recognize the images that you saw?

14 A. Yes, I did.

15 Q. I want to direct your attention to proposed Government's
16 Exhibit 11-263. I'm going to ask you to describe this. Do you
17 recognize those photos?

18 A. Yes, I do.

19 Q. And if you look at the back, do you recognize that
20 document?

21 A. Yes.

22 Q. All right.

23 MS. MOHSIN: Your Honor, the Government would move for
24 the admission of 11-263 at this time.

25 THE COURT: Questions or objections?

1 MR. SABBOTA: I'm sorry. No objection, your Honor.

2 THE COURT: Thank you. I hear that and I see no
3 additional objection. It is received.

4 (Exhibit 11-263 received, 10:02 a.m.)

5 BY MS. MOHSIN:

6 Q. Deputy Gibes, using your laser -- well, maybe not needing
7 your laser pointer, can you describe what's in the first
8 photograph?

9 A. This was one of the subjects we had seen in the parking lot
10 that was wearing a Devils Diciples baseball cap.

11 Q. Does this particular picture have that cap depicted in it?

12 A. Yes, it does.

13 Q. Does it have a date and time stamp?

14 A. Yes, it does.

15 Q. What is that date and time stamp?

16 A. April 28, 2003, at 4:14 a.m.

17 Q. Directing your attention to the lower half of this
18 particular picture, can you describe what's, well, depicted in
19 this picture?

20 A. This is the second subject that we had seen in the parking
21 lot walking into the casino.

22 Q. And does it have the same date and time?

23 A. Yes, it does.

24 Q. Is there a close-up or a clearer picture as well of that
25 second subject?

1 A. Yes, there is.

2 Q. Is this that image that I've just put on the display here?

3 A. That is correct.

4 Q. Does it have a different date and time stamp?

5 A. It is the same date, and time is 0425.

6 Q. Okay.

7 A. Or 4:25 a.m.

8 Q. Now, after you obtained these photographs and looked at the
9 vehicle, did you have any other interaction with these
10 individuals again?

11 A. No, I did not.

12 MS. MOHSIN: And I have no further questions for you.
13 Thank you very much.

14 THE COURT: All right. Questions by counsel?

15 MR. PITTS: Just a few, your Honor.

16 THE COURT: All right, sir. Go ahead, Mr. Pitts.

17 MR. PITTS: May it please the Court.

18 CROSS-EXAMINATION

19 BY MR. PITTS:

20 Q. Would it be -- is it Deputy Gibes?

21 A. Yes.

22 Q. Okay. Deputy Gibes, how are you this morning?

23 A. Very good.

24 Q. Okay. Listen, I'm going to ask you just a few questions
25 about your observations on or about April 27th of '03. Okay?

1 Okay. You testified that you went into an area that
2 you've identified as Box Canyon, correct?

3 A. That's correct.

4 Q. And that's sort of routine patrol, that's your beat; fair
5 statement to make?

6 A. Yes.

7 Q. Okay. And you made observations of various individuals in
8 certain what appear to be conditions of distress; fair
9 statement?

10 A. That's correct.

11 Q. Okay. Just kind of as you've testified previously, many of
12 them were covered in blood, correct?

13 A. Two of them, two that I saw.

14 Q. Well, fair enough. The two that you saw were covered in
15 blood, correct?

16 A. Yes.

17 Q. And so much blood that there was -- you looked down, would
18 it be called a ravine or something like -- you saw --

19 A. Yes.

20 Q. -- some rocks at the bottom of a ravine, correct?

21 A. That's correct.

22 Q. Okay. And at the bottom of the ravine, even the rocks were
23 covered with blood; fair statement to make?

24 A. Yes.

25 Q. So whatever happened to this young -- to these two

1 individuals that you saw, it's a fair statement to make that it
2 was -- whatever, whatever incident occurred, it certainly was a
3 bloody incident; fair statement to make?

4 A. It appeared that way.

5 Q. It appeared to you, to the best of your knowledge.

6 After you made your observations and took your
7 photographs and left that area, you eventually went to go get
8 something to eat, correct?

9 A. That's correct.

10 Q. And you went to an all-night casino?

11 A. Yes.

12 Q. Okay. And you went to the all-night casino with some of
13 your colleagues; fair statement to make?

14 A. Yes.

15 Q. Okay. And as you're getting ready to exit the casino, you
16 made some observations, correct?

17 A. Yes.

18 Q. Okay. And let me just ask you, the observations that you
19 made as it relates to April 27th of '03, you documented in a
20 police report, correct?

21 A. Yes, I did.

22 Q. And you've reviewed that police report as being accurate
23 and complete?

24 A. Yes.

25 Q. And it's a fair statement to make you can't put everything

1 that you saw into the police report, but certainly you put down
2 what's important, correct?

3 A. That's correct.

4 Q. Okay. And as you're exiting the Casino of the Sun casino
5 hotel, you observe two individuals, correct?

6 A. Correct.

7 Q. And these individuals -- and your observations of these two
8 individuals indicate to you that they are wearing Devils
9 Diciples paraphernalia, correct?

10 A. Yes.

11 Q. You get a good look at them. You see one is wearing -- is
12 it a shirt?

13 A. A T-shirt.

14 Q. And one of them is wearing a hat, correct?

15 A. Yes.

16 Q. And that caught your attention because you thought -- that
17 caught your attention; fair statement to make?

18 A. Yes.

19 Q. Okay. Caught your attention so much that you decided to
20 keep your eye on these individuals, correct?

21 A. Yes.

22 Q. Instead of leaving, you kind of doubled on back and
23 continued to observe them; fair statement?

24 A. I'm sorry?

25 Q. You were getting ready to leave the casino, correct?

1 A. That's correct.

2 Q. Instead of leaving the casino, you doubled back and
3 continued your observations of these two men in the Diciples
4 paraphernalia, correct?

5 A. We didn't follow them back into the casino. We waited for
6 them to go into the casino before we re-entered to make contact
7 with the security.

8 Q. Okay. Fair enough. But you kept your eye on them?

9 A. Yes.

10 Q. Fair statement?

11 Okay. And certainly you didn't see any of these men
12 covered in blood, did you?

13 A. No.

14 Q. You didn't see any of these men appear to have bruises or
15 marks on their hands, as if they've been in some kind of
16 altercation, did you?

17 A. No.

18 MR. PITTS: With the Court's permission? Nothing
19 further. Thank you.

20 MR. SABBOTA: Can I ask him a couple questions,
21 please?

22 THE COURT: Mr. Sabbota, go ahead.

23 MR. SABBOTA: Thank you.

24 CROSS-EXAMINATION

25 BY MR. SABBOTA:

1 Q. Good morning, sir.

2 A. Good morning.

3 Q. Your role in this really is you respond to an area known as
4 the Box Canyon?

5 A. Correct.

6 Q. And you find various people at the Box Canyon that you need
7 to call for medical assistance?

8 A. That's correct.

9 Q. Now, you don't know how these people got there?

10 A. No. That's correct.

11 Q. And you don't know what caused those injuries?

12 A. At that time, no, we did not.

13 Q. And you didn't see anybody injure these individuals?

14 A. I'm sorry?

15 Q. You didn't see anybody injure these individuals?

16 A. No, I did not.

17 Q. And you don't know why these people were injured at all, do
18 you?

19 A. That's correct.

20 Q. Because what you can really tell us is what you saw and
21 what you, yourself, found?

22 A. Correct.

23 Q. And that's what you can rely on?

24 A. Yes.

25 Q. And what happens is while you're doing your careful search,

1 you find a holster.

2 A. Yes.

3 Q. Did you find a gun on anybody?

4 A. No, I did not.

5 Q. And it was a holster that would go for a, a pistol or a
6 side arm; am I right?

7 A. That's correct.

8 Q. And then you also found a pair of brass knuckles?

9 A. Yes.

10 Q. Now, a pair of brass knuckles is generally an offensive
11 weapon, based on your experience?

12 A. Yes.

13 Q. Most people don't carry brass knuckles?

14 A. That's correct.

15 Q. And those brass knuckles were found near one of the
16 individuals that required medical assistance?

17 A. That's correct.

18 MR. SABBOTA: No further questions.

19 THE COURT: Any others?

20 Any redirect?

21 REDIRECT EXAMINATION

22 BY MS. MOHSIN:

23 Q. Deputy Gibes, you were called to respond to a car accident?

24 A. Yes.

25 Q. Did you find a car?

1 A. No.

2 Q. You didn't find a gun?

3 A. No, we did not.

4 MR. PITTS: I would object to the leading, your Honor.

5 THE COURT: Overruled.

6 BY MS. MOHSIN:

7 Q. You indicated that you didn't see any bruises or marks on
8 the hands of the two individuals who were depicted in the
9 photo, yes?

10 A. That's correct.

11 Q. Did you have any physical contact with these individuals?

12 A. No, we did not.

13 Q. What is the closest that you came to them after you
14 observed them passing by?

15 A. As they passed us, they were the closest to us. They got
16 probably within 8 to 10 feet of us, and then we never got a
17 very -- we never got close to them again. All the observation
18 was done over a camera.

19 Q. And was that the black and white photo camera that we saw
20 or was it a color image?

21 A. It was black and white.

22 Q. So the video surveillance image was black and white, as
23 well?

24 A. The video surveillance is actually colored.

25 Q. But the image that was produced was black and white?

1 A. Correct.

2 Q. Did you have an opportunity to look at their hands?

3 A. No, I did not.

4 Q. So you don't know if they had any bruises or --

5 MR. PITTS: Objection.

6 BY MS. MOHSIN:

7 Q. -- or anything?

8 MR. PITTS: It's a leading question.

9 THE COURT: That, I agree.

10 BY MS. MOHSIN:

11 Q. Did you have an opportunity to look at their hands?

12 A. No, I did not.

13 Q. Did you have an opportunity to examine, to determine
14 whether there were bruises or any other marks on their hands?

15 A. No, I would -- did not.

16 Q. Do you know whether they had marks on their hands or not?

17 A. No, I do not.

18 Q. By the way, you indicated that one of them was wearing a
19 Devils Diciples hat, and that was depicted in the photo. Which
20 individual of the two was wearing the shirt?

21 A. There was a heavier set subject that was wearing a shirt,
22 the T-shirt. The subject wearing the baseball hat, that was
23 how we associated him. The other subject who was not wearing a
24 baseball hat was wearing a Devils Diciples T-shirt.

25 Q. So the second photograph that was shown to you, and the

1 third photograph; is that accurate?

2 A. That's correct.

3 MS. MOHSIN: Thank you.

4 THE COURT: And the Court has no questions. So you
5 may step down, sir.

6 THE WITNESS: Thank you.

7 (Witness excused, 10:11 a.m.)

8 THE COURT: Next?

9 MS. MOHSIN: Your Honor, I've asked for my witness to
10 be brought. I'm going to see if he's here.

11 THE COURT: Okay.

12 MS. MOHSIN: Your Honor, the Government would call
13 Charles Higgins.

14 (Witness is sworn.)

15 THE COURT: Have a seat up here.

16 All right. Ms. Mohsin?

17 MS. MOHSIN: Thank you, your Honor.

18 CHARLES HIGGINS

19 called as a witness at 10:12 a.m., testified as follows:

20 DIRECT EXAMINATION

21 BY MS. MOHSIN:

22 Q. Good morning.

23 A. Good morning.

24 Q. I'm going to ask you to keep your voice up. Maybe just sit
25 up a little straighter so that you can be, be heard.

1 A. All right.

2 Q. Can you please state your full name and spell your last
3 name for the jury.

4 A. Charles R. Higgins. H-I-G-G-I-N-S.

5 Q. I'm going to ask you to scoot a little bit forward if you
6 can. It's hard to hear you, sir.

7 A. All right.

8 Q. Mr. Higgins, do you ever go by a name other than Charles
9 Higgins, a nickname of any kind?

10 A. Yes.

11 Q. What was that?

12 A. "Riggs."

13 Q. Riggs? How tall are you, sir?

14 A. 6'8".

15 Q. And did you go by a name such as "Big Riggs" as well?

16 A. Yeah. That was the original name.

17 Q. All right. Also "Riggs"?

18 A. Yeah.

19 Q. How old are you, sir?

20 A. Fifty-seven.

21 Q. What's the highest educational level that you achieved?

22 A. Third year of college.

23 Q. And what was the study that you pursued in college?

24 A. Electronics.

25 Q. All right. Can you tell the jury a little bit about your

1 background as far as employment is concerned?

2 A. Currently, or am I --

3 Q. Let's start with currently. What do you do, sir?

4 A. I'm a mechanic right now, full-time.

5 Q. And what type of mechanic are you?

6 A. Automotive.

7 Q. And you say full-time?

8 A. Yes.

9 Q. How long have you been working as a mechanic?

10 A. Ten or 11 years.

11 MR. SABBOTA: Excuse me, Judge. Could you ask him to
12 please speak up a little bit?

13 THE WITNESS: Ten or 11 years.

14 MR. SABBOTA: Thank you, sir.

15 THE WITNESS: You're welcome.

16 THE COURT: That's about as close as I think he's
17 going to be able to get to the microphone. So just speak
18 firmly and you'll be heard, sir.

19 THE WITNESS: All right.

20 THE COURT: Go ahead, Ms. Mohsin.

21 MS. MOHSIN: Yes, your Honor.

22 BY MS. MOHSIN:

23 Q. Now, I want to direct your attention to motorcycle clubs.

24 Have you ever been a member of a motorcycle club?

25 A. Yes, I have.

1 Q. And have you been the member of one motorcycle club or more
2 than one motorcycle club?

3 A. Two motorcycle clubs.

4 Q. Which was the first motorcycle club that you were a member
5 of?

6 A. The Boozefighters.

7 Q. Booze, B-O-O-Z-E, Boozefighters?

8 A. Yes.

9 Q. And was that in Arizona?

10 A. Yes.

11 Q. How long were you a member of that club?

12 A. Seven years.

13 Q. And about when would that have been? In the '70s? '80s?
14 '90s?

15 A. In the '80s, yeah.

16 Q. In the '80s?

17 Did there come a time where you became a member of
18 another motorcycle club?

19 A. Yes.

20 Q. What motorcycle club was that?

21 A. Devils Diciples.

22 Q. And approximately when did you become a full patched member
23 of the Devils Diciples, roughly?

24 A. I believe it was '83. Or '93, I mean.

25 Q. 1993?

1 A. Yes.

2 Q. Now --

3 A. About that time.

4 Q. Around that time?

5 A. Mh-hmm.

6 Q. Sir, have you ever had any history of using any sort of
7 illegal drugs, like cocaine or meth?

8 A. I have used all of them. Yes.

9 Q. And I want to direct your attention now to the time that
10 you were a member of the Devils Diciples.

11 You indicated that you had become a member in about
12 1993. Did you ever have a relationship with the Devils
13 Diciples before that? In other words, did you prospect?

14 A. Yes.

15 Q. And about how long did you prospect?

16 A. About one year.

17 Q. What chapter did you become a member of?

18 A. Arizona.

19 Q. Now, does Arizona have one chapter or multiple chapters of
20 Devils Diciples?

21 A. At that time, they just had one.

22 Q. And was that in southern Arizona?

23 A. Yes.

24 Q. Did they have a clubhouse?

25 A. Yes.

1 Q. Where was that clubhouse?

2 A. On Benson Highway in Tucson.

3 Q. Benson Highway, you said?

4 A. Mh-hm.

5 Q. Was this a clubhouse as in a structure with some land
6 around it, that type of location?

7 A. Yes.

8 Q. How much land was around that clubhouse?

9 A. About 3 acres.

10 Q. And is Benson Highway a -- what kind of a location is
11 Benson Highway? Is it a commercial area? Residential area?

12 A. I would say primarily residential.

13 Q. All right. Who was your sponsor?

14 A. Bogart.

15 Q. Bogart?

16 A. Mh-hm.

17 Q. Did you know his real name?

18 A. Oh, boy. Yes, I did, but I don't recall it.

19 Q. You don't recall it now.

20 When you were a sponsor and when you became a member,
21 did you have to be schooled on how to become a Devils Diciples?

22 A. I would say yes.

23 Q. Were you provided with any sort of bylaws?

24 A. Yes.

25 Q. Did you have a motorcycle?

1 A. Yes.

2 Q. What type of motorcycle did you have?

3 A. A '73 Harley FXE.

4 Q. Okay. When you first became a member of the Devils
5 Diciples, who was the president of your chapter?

6 A. Cuz.

7 Q. Cuz? C-U-Z?

8 A. Mh-hm.

9 Q. Who were some of the other individuals that were members of
10 the chapter when you joined? You mentioned Bogart and Cuz.

11 A. Mexican John, Molasses, Sleepy. I'm probably missing some,
12 but that's what comes off the top of my head.

13 Q. Did you know an individual by the name of "Mac Tonight"?

14 A. Yes. He was also a member.

15 Q. Did you know an individual that went by the nickname of
16 Doc?

17 A. Yes.

18 Q. Was he a member?

19 A. Yes, he was.

20 Q. Did you know an individual by the name of Wizard?

21 A. Yes.

22 Q. Was he a member at that time?

23 A. No, he was not.

24 Q. Was he a member later?

25 A. Yes.

1 Q. All right. I want to direct your attention now to the
2 national leadership at that time. I'm talking roughly 1993
3 when you joined. Did you know who the national leaders were at
4 that time? Can you recall it?

5 A. Yes.

6 Q. Who were they?

7 A. Fat Dog was the national boss the whole time I was in the
8 club.

9 Q. All right. So in 1993, Fat Dog was the national boss.

10 A. Yeah.

11 Q. Who were some of the other officers? Do you remember?

12 A. No.

13 Q. Did you know any of the warlords at that time?

14 A. (No response.)

15 Q. The national warlords.

16 A. In '93?

17 Q. Yup.

18 A. I think so. I think Sonny was the national warlord.

19 Q. Sonny?

20 A. Yes.

21 Q. And did you know anyone by the name of Pauli?

22 A. Yes.

23 Q. How did you know that individual?

24 A. I had met him at a funeral here in Detroit.

25 Q. At some later time from when you became a member?

1 A. Not, not long afterwards.

2 Q. And was he a member at that time of the Devils Diciples?

3 A. Yes.

4 Q. Was he some sort of a national -- did he have any sort of a
5 title?

6 A. I did -- I don't know that at that time.

7 Q. All right. I want to direct your attention to an
8 individual named Little John. Are you familiar with that
9 individual?

10 A. Yes.

11 Q. How are you familiar with Little John?

12 A. He was the boss of Hollywood.

13 Q. Okay. And say Hollywood. Is that a chapter of the Devils
14 Diciples?

15 A. In southern California.

16 Q. In southern California?

17 A. Mh-hm.

18 Q. Were you familiar with an individual that went by the name
19 of Holiday?

20 A. Yes.

21 Q. How are you familiar with that individual?

22 A. I had met him. And he -- I don't know if Fontana had an
23 active chapter then, but I believe at one time he was the boss
24 of that.

25 Q. And when you say "Fontana," are you talking about

1 California?

2 A. Yes.

3 Q. And you're talking about Devils Diciples?

4 A. Yes.

5 Q. Was Holiday a member of the Devils Diciples when you
6 joined?

7 A. Yes.

8 Q. All right. Now, you had mentioned that you became a member
9 and that there were some other members. Cuz was the president.
10 Who was the treasurer at that time; do you know?

11 A. Yes. Mexican John.

12 Q. Who was it? Mexican John?

13 A. Mh-hm.

14 Q. Was he a treasurer for a long period of time?

15 A. Yes.

16 Q. Did there come a time where you had any positions of
17 authority within the southern Arizona chapter of the Devils
18 Diciples?

19 A. In the time that I was in there, I think I did everything
20 except road captain and vice president.

21 Q. So you had served as president; is that an accurate
22 statement?

23 A. Yes.

24 Q. And you had served as a warlord?

25 A. Yes.

1 Q. And you served as an enforcer?

2 A. Yes.

3 Q. And treasurer?

4 A. Never.

5 Q. Never treasurer? Vice president?

6 A. Never.

7 Q. All right. So those were the positions that you had held
8 over time; is that a fair statement?

9 A. Yes.

10 Q. How long were you the president of that chapter?

11 A. It was probably four or five different times. We, we
12 changed leadership very often in Arizona. I think the longest,
13 maybe a year.

14 Q. So you were president at different periods of time
15 beginning in 1993; is that a fair statement?

16 A. No. It was a few years before I became president.

17 Q. All right. So sometime after you joined, a few years
18 later, you served as president on perhaps five different
19 occasions?

20 A. Yes.

21 Q. Is that a fair statement?

22 But not consecutively?

23 A. No.

24 Q. All right. When you said that you changed leadership all
25 the time, how did you go about doing that?

1 A. We just had elections.

2 Q. All right. And did you have them often in the southern
3 Arizona chapter?

4 A. Fairly often, yeah.

5 Q. How many national elections did you participate in?

6 A. None.

7 Q. You never participated in any national elections?

8 A. There weren't any, to my knowledge.

9 Q. All right. And I want to direct your attention now to the
10 term "nomad." Are you familiar with nomads?

11 A. Mh-hm.

12 Q. Who are nomads?

13 A. They are members that don't belong to any one chapter.

14 Q. Did you have any nomads in southern Arizona?

15 A. Yes.

16 Q. Who were some of the nomads that you had in southern
17 Arizona?

18 A. Most of the time, String Bean, and then in later times,
19 Smoky and Grog.

20 Q. Smoky, Grog, and String Bean?

21 A. Mh-hm.

22 Q. You knew these individuals?

23 A. Yes.

24 Q. They were all nomads?

25 A. Yes.

1 Q. Did you guys hold regular church meetings?

2 A. Yes.

3 Q. Did you guys pay dues?

4 A. Yes, we did.

5 Q. Did you ever participate in any national runs?

6 A. (No response.)

7 Q. Did you ever go to any national runs?

8 A. Yes.

9 Q. Where did you go to national runs? What chapters?

10 A. Here, Alabama, Arizona, and one or two funerals.

11 Q. So you had been to clubhouses for the Devils Diciples in a

12 number of different places?

13 A. Yes.

14 Q. Is that an accurate statement?

15 A. Yes.

16 Q. And did those include Michigan?

17 A. Yes.

18 Q. Alabama?

19 A. Yes.

20 Q. Did you go to any in Ohio?

21 A. No.

22 Q. Indiana?

23 A. Yes.

24 Q. California?

25 A. Yes.

1 Q. And did you hold national runs in the southern Arizona
2 chapter?

3 A. Yes. Thanksgiving.

4 Q. Was that an annual run?

5 A. Yes.

6 Q. Now, is there a national cemetery for the Devils Diciples?

7 A. Yes.

8 Q. Where is that located?

9 A. Chandler, which is south of Phoenix, north of Tucson.

10 Q. Is that in proximity or close proximity to your chapter in
11 southern Arizona that you were a member of?

12 A. It's about an hour away.

13 Q. Okay. Did your chapter ever purchase any cemetery plots
14 for the club for club members to be buried in?

15 A. Yes.

16 Q. All right. Did your chapter maintain any gambling
17 machines, slot machines, or poker machines?

18 A. Sometimes.

19 Q. And when you say "sometimes," on some occasions but not on
20 others?

21 A. Yeah. We didn't own them.

22 Q. Someone else owned them?

23 A. Yeah.

24 Q. Was that a member of the Devils Diciples?

25 A. No.

1 Q. Did you have some sort of financial agreement with the
2 individual?

3 A. We split the liability and whatever profit there was.

4 Q. And what was that split?

5 A. 50/50.

6 Q. And what was the purpose of that money? Did it go into
7 someone's pocket or was it for some other purpose?

8 A. No. I mean, it was just went to the treasury, if there was
9 any.

10 Q. It went to the treasury, meaning of the chapter?

11 A. Yes.

12 Q. All right. Now, what was your understanding about leaving
13 the club, if someone left the club? Could you leave the Devils
14 Diciples? Could you stop being a member?

15 A. Yes.

16 Q. And could you leave in good or bad standing?

17 A. I don't understand that question.

18 Q. Did you have to have permission before you could leave the
19 club?

20 A. I think it was something that had to be voted on.

21 Q. Were there consequences for people who left the club in
22 less than, than -- without permission, so to speak?

23 A. I don't think I ever knew that happening.

24 Q. So anyone could join and leave at any time?

25 A. No. I think you had to have five years' membership.

1 Q. What would happen if you left before that five years, if
2 anything?

3 A. Well, I imagine you would be walking with no motorcycle,
4 but I don't -- I don't think that ever happened.

5 Q. Now, when you say "walking with no motorcycle," can you
6 explain that?

7 A. Well, you gave the motorcycle up when you joined, you know,
8 so it belonged to the club.

9 Q. And so did that include a motorcycle that you had obtained
10 yourself?

11 A. (No response.)

12 Q. In other words, paid for yourself?

13 A. Yes.

14 Q. All right. Now, I want to direct your attention to an
15 individual by the name of Sleepy. You mentioned that Sleepy
16 was a member of the Devils Diciples southern Arizona chapter
17 when you joined?

18 A. Yes.

19 Q. Did you know him?

20 A. Yes, I did.

21 Q. Did you have any sort of relationship with him, friendship?

22 A. Yes.

23 Q. Did there come a time where you owed him some money?

24 A. A couple times, probably.

25 Q. All right. And did there come a time where you did him any

1 favors or did things for him?

2 A. Certainly.

3 Q. Did there come a time where you were involved in the
4 transportation of methamphetamine for Sleepy?

5 A. Yes.

6 Q. Can you tell the jury a little bit about that?

7 A. I believe I did that twice for Sleepy.

8 Q. And when you say you did that twice, was that --

9 A. I brought methamphetamine to Detroit from Tucson for him.

10 Q. For Sleepy?

11 A. Mh-hm.

12 Q. And who did you give it to?

13 A. Once to Mike, Iron Mike, and then once, could have been any
14 of three people --

15 Q. So --

16 A. -- that were in there.

17 Q. -- you said once for Iron Mike?

18 A. Mh-hm.

19 Q. Is that another member of the Devils Diciples?

20 A. Yes.

21 Q. Did you know what chapter he was a member of?

22 A. Right here, Detroit.

23 Q. You have to keep your voice up.

24 A. Detroit.

25 Q. Detroit. And you delivered that meth to him directly?

1 A. Yes.

2 Q. Did you know how much meth that was?

3 A. Actually, I couldn't tell you exactly, you know, but
4 probably about a pound.

5 Q. About a pound of meth?

6 And do you remember approximately when that would have
7 been?

8 A. Mid '90s.

9 Q. All right. Now, you said that there was another time that
10 you transported meth. Approximately how much meth did you
11 transport?

12 A. Five ounces maybe, something like that.

13 Q. And you said it could have been any one of a number of
14 people. Can you explain what that means?

15 A. Well, I just brought it somewhere, and there were three
16 people there.

17 Q. And did you hand it to them or you left it for them
18 somewhere?

19 A. No. It was -- I just delivered it there.

20 Q. And who were those three people?

21 A. Detroit Red, Pollack and Iron Mike.

22 Q. And so when you say you left it there, was it hidden
23 somewhere or did you hand it to someone?

24 A. Yeah. I just brought it in. It was in a, like a bank bag.

25 Q. All right. And what did you do with it?

1 A. I gave it to him and I left.

2 Q. Now, did there come a time where you were involved on your
3 own in drug trafficking?

4 A. Yes.

5 Q. And did that go on in the '90s?

6 A. The late '90s, maybe.

7 Q. All right. And did you have interactions with individuals
8 within the club or with other individuals?

9 A. (No response.)

10 Q. In other words, you were trafficking with members from the
11 Devils Diciples or other individuals?

12 A. Both.

13 Q. Non-members?

14 A. Both.

15 Q. Both?

16 Now, did any of the money that was used or made from
17 these drug-trafficking transactions, was any of that money used
18 in furtherance of the club for the purposes of the club?

19 A. Yes. All of it was used to try to keep -- maintain
20 possession of the clubhouse.

21 Q. Now, the clubhouse that you're talking about, is that the
22 one on Benson Highway in Tucson?

23 A. Yes.

24 Q. Was that a property that was owned or mortgaged by anyone?

25 A. I was never able to see the actual paperwork on that. It

1 was, it was supposedly owned by Cuz and his girlfriend's
2 relative.

3 Q. And so at the time when you were a member of the Tucson
4 chapter, you understood that Cuz was the owner of the property?

5 A. Near the end of it, he should have been the sole owner of
6 it, yes.

7 Q. And did you and your fellow Tucson, southern Arizona
8 members make payments toward the mortgage on that property?

9 A. Yes.

10 Q. Who did you make the payments to?

11 A. Cuz.

12 Q. And were any of the payments that were made the proceeds of
13 drug-trafficking activity?

14 A. Yes, sometimes.

15 Q. All right. I want to direct your attention now to an
16 individual named Two Dogs. Are you familiar with an individual
17 by the name of Two Dogs?

18 A. Yes.

19 Q. How are you familiar with Two Dogs?

20 A. He was a member of our chapter.

21 Q. And approximately when did he become a member of your
22 chapter?

23 A. He became a member about a week before Little Dog died. I
24 can't give you a date on that.

25 Q. So Little Dog was a member of Devils Diciples?

1 A. Yes.

2 Q. Out of what chapter?

3 A. Alabama.

4 Q. And Little Dog died; is that right?

5 A. Yes.

6 Q. And at some point before that, a week or so, is when Two
7 Dogs became a patched member?

8 A. Yes.

9 Q. All right. Who was Two Dogs's sponsor; do you know?

10 A. I believe Doc. I'm not positive of that.

11 Q. Was Two Dogs involved in the distribution of
12 methamphetamine?

13 A. I think twice.

14 Q. All right. So he, he was involved?

15 A. Yes.

16 Q. Were you aware of at least two occasions?

17 A. Yes.

18 Q. I want to direct your attention to one of those occasions.
19 Did there come a time where Two Dogs came to Michigan with
20 meth?

21 A. Yes.

22 Q. Can you tell the jury what the circumstances were leading
23 up to him coming to Michigan with meth?

24 A. I'm not clear on what you want -- what you want from me on
25 that.

1 Q. All right. Was he a member at the time?

2 A. Yes.

3 Q. And did he have a quantity of meth?

4 A. Yes.

5 Q. And was he supposed to come to Michigan with that meth?

6 A. Yes.

7 Q. What was the purpose of him bringing the meth to Michigan?

8 A. We needed money for the clubhouse.

9 Q. And how much meth was he supposed to distribute in
10 Michigan?

11 A. Four ounces.

12 Q. I'm sorry?

13 A. Four ounces.

14 Q. And did you have any expectation of how much money he was
15 supposed to obtain for that four ounces?

16 A. He should have \$900 above the expenses.

17 MR. SABBOTA: Your Honor, I'm going to object unless a
18 foundation was laid that he was with this individual.

19 THE COURT: I don't know, I don't think that's an
20 essential element of the foundation. I'm understanding the
21 witness is speaking from personal --

22 THE WITNESS: Yeah, I was not present.

23 THE COURT: -- knowledge?

24 I'm understanding that, but the question should
25 clarify perhaps.

1 MS. MOHSIN: Yes, your Honor.

2 BY MS. MOHSIN:

3 Q. Did you know that Two Dogs was coming to Michigan with
4 meth?

5 A. Yes.

6 Q. How did you know that?

7 A. I suppose I guess the easiest way to say it is I put up a
8 car to get it.

9 Q. So when you say you put up a car, what does that mean?

10 A. Well, that's what was covering. We did not have the money
11 to buy it.

12 Q. So the meth you didn't have the money to purchase?

13 A. Right.

14 Q. So was it fronted to you?

15 A. Well, it was covered by a title on a car.

16 Q. What type of car was it?

17 A. Yeah. Early '70s Firebird.

18 Q. A Firebird?

19 A. Mh-hm.

20 Q. And did you give that vehicle and its title -- withdrawn.

21 Did you give that vehicle or its title to someone in
22 exchange for 4 ounces or so of meth?

23 A. On the second trip, he didn't come back with any money, so,
24 yes, I ended up giving up the car.

25 Q. And that's what I'm getting to.

1 So on one of these occasions, did you obtain a
2 quantity of meth, you or Two Dogs, obtain a quantity of meth?

3 A. Yes.

4 Q. For the purpose of bringing it to Michigan?

5 A. Mh-hm.

6 Q. And your car was the collateral?

7 A. Right.

8 Q. And so did you know that Two Dogs was coming to Michigan
9 with meth?

10 A. Yes.

11 Q. And did you know he was coming to Michigan with 4 ounces of
12 meth?

13 A. Yes.

14 Q. And did you have an expectation that he would return with
15 money?

16 A. Yes. That was the plan.

17 Q. And what was the -- what was your intent with respect to
18 that money? What were you going to do with it?

19 A. Give it to Cuz to put towards the clubhouse.

20 Q. And when you say "put towards the clubhouse," to pay the
21 mortgage?

22 A. Yes.

23 Q. So did Two Dogs go to Michigan with the meth?

24 A. Twice.

25 Q. All right. Did he come back with money?

1 A. Once.

2 Q. And on the one occasion he came back with money, how much
3 did he come back with?

4 A. Somewhere about \$3,300, something like that.

5 Q. And what did you do with the -- or what did he do with that
6 money; if you know?

7 A. We paid the person we got it from, and paid on the
8 mortgage.

9 Q. All right. So you paid the money that was owed to the
10 person who supplied you with the meth.

11 A. Right.

12 Q. And then you paid the mortgage?

13 A. Yes.

14 Q. What happened on the second occasion?

15 A. He came back with no money.

16 Q. All right. And did he come back with something else?

17 A. Two pistols.

18 Q. And these were two pistols that he came back with. Did he
19 tell you where he got them?

20 MR. SABBOTA: Objection. That would be hearsay, your
21 Honor.

22 MS. MOHSIN: I think this is 801(d)(2)(E), your Honor.

23 THE COURT: It seems to me 801(d)(2)(E) and therefore
24 not hearsay.

25 Go ahead.

1 BY MS. MOHSIN:

2 Q. Did he tell you where he got them?

3 A. Not directly. They came from Detroit, I know that.

4 Q. Well, what were the circumstances? What did you understand
5 these pistols to represent, if anything?

6 A. I don't know exactly what they represented. He claimed
7 that, that he was accosted by federal agents and that they had
8 taken his money. And it's like, well, you had these pistols
9 with you; they didn't take them? And that's what he said, yes.

10 Q. Did, did this event cause problems for you, Two Dogs, or
11 the Tucson chapter?

12 A. Well, they put an end to the drug business.

13 Q. Okay. Why is that?

14 A. Well, I had no more cars to give up.

15 Q. So the Firebird or --

16 A. It was gone from that, yes.

17 Q. You had surrendered that title?

18 A. Mh-hm.

19 Q. Because you couldn't pay the debt.

20 A. Right.

21 Q. And what about these two firearms? Was there some concern
22 by any members of the Devils Diciples outside of the Tucson
23 chapter that was expressed to you about them?

24 A. Yes, I think there was. But they weren't the guns that
25 were in question after, you know.

1 Q. So what was the concern about these two guns?

2 A. I don't know.

3 Q. Did anyone express concerns to you about these two guns?

4 A. Yes. They were concerned about where they came from, and
5 when, when they -- I produced the guns and they looked at them.
6 I didn't know where they were from. They were not --

7 Q. You're talking about "they" --

8 A. Yes.

9 Q. -- can you be specific about who you are talking about?

10 A. Yeah. That would have been I think Holiday and Little
11 John. We had a meeting in Tucson.

12 Q. When you say you think?

13 A. I know for sure Holiday was there. I don't -- I'm not
14 clear on Little John.

15 Q. All right. So there was a meeting?

16 A. Mh-hm.

17 Q. After these two guns were brought back from Michigan; is
18 that an accurate statement?

19 A. Yes.

20 Q. And where was this meeting?

21 A. At the Tucson clubhouse.

22 Q. And who was the meeting with?

23 A. I believe me, Doc, and Two Dogs and Holiday and perhaps
24 Little John.

25 Q. Had they come -- was Holiday a member of the Tucson

1 chapter?

2 A. No.

3 Q. Where was he a member of?

4 A. California.

5 Q. California?

6 A. Mh-hm.

7 Q. Had he come to Tucson for this meeting?

8 A. I think it may have been Turkey Day, too. I'm not

9 positive.

10 Q. And approximately when did this occur?

11 A. (No response.)

12 Q. I'm asking you for the year.

13 A. I couldn't -- I'm not clear on that.

14 Q. Well --

15 A. Within two years, minimum, probably before the -- my ending

16 of the membership.

17 Q. All right. So just so that the jury is clear, were you one

18 of the individuals that was in the Box Canyon on August or

19 April the 27th and 28th of 2003?

20 A. Yes.

21 Q. Okay. And was that the end of your membership or

22 involvement with the Devils Diciples as a member?

23 A. Yes.

24 Q. So this was within a year or two --

25 A. Yeah.

1 Q. -- of that event?

2 A. Yes.

3 Q. Did you have an understanding of how much before that
4 event?

5 A. That's what I'm thinking, about a year.

6 Q. All right. During this meeting, was there any discussion
7 about drugs being sold from within the clubhouse?

8 A. Maybe.

9 Q. All right. And when you say "maybe," go ahead, explain
10 that, please.

11 A. All right. I don't remember if that was a topic in that
12 meeting, but I was having problems with Two Dogs anyway with
13 that.

14 Q. When you say you were having problems with that, were you
15 the chapter president when Two Dogs was a member?

16 A. Sometimes.

17 Q. And when Two Dogs went to Michigan and came back with two
18 guns, were you the chapter president?

19 A. Yes, I was.

20 Q. And when this meeting occurred with Holiday, were you the
21 chapter president?

22 A. Yes, I believe I was.

23 Q. When you said you had problems with Two Dogs selling drugs
24 from the Tucson chapter clubhouse, were you the president at
25 that time?

1 A. Yes.

2 Q. And so if you are the president and someone is selling
3 drugs from a clubhouse, is that a problem or is that something
4 sanctioned by the club?

5 A. No, that was not permissible there. And I made him move
6 into the clubhouse thinking that we could curb that behavior.

7 Q. What's wrong with selling drugs from within the clubhouse?

8 A. What's wrong with it?

9 Q. Yes.

10 A. Yeah. You were putting your property at risk.

11 Q. And when you say "putting the property at risk," what type
12 of risk? What is the risk?

13 A. Of them getting caught doing that.

14 Q. So is this a concern about law enforcement or is it a
15 concern --

16 A. Yes.

17 Q. -- about someone else?

18 A. Yes. Law enforcement.

19 Q. Okay.

20 THE COURT: Let's take our morning recess at this
21 point. Twenty minutes in the jury room, ladies and gentlemen.
22 We'll resume at 11 a.m. Thank you.

23 (Jury out, 10:41 a.m.)

24 COURT REPORTER: All rise. Court is in recess.

25 (Recess taken, 10:42 a.m. - 11:02 a.m.)

1 THE CLERK: All rise. Court is now in session.

2 (Jury in, 11:02 a.m.)

3 THE COURT: The Court notes the presence of all
4 attorneys and all defendants.

5 All right. The jury has assembled. Please be seated.
6 And everyone is present.

7 And, Ms. Mohsin, you may proceed.

8 MS. MOHSIN: Yes, your Honor.

9 BY MS. MOHSIN:

10 Q. Mr. Higgins, before we stopped at the break, we were
11 talking about an individual by the name of Two Dogs. And you
12 had indicated that you had reason to believe that he was
13 selling drugs in the clubhouse in Tucson; is that correct?

14 A. Yes.

15 Q. Were there other events that occurred that were problematic
16 with respect to Two Dogs during this time period?

17 A. I would -- yes.

18 Q. Yes?

19 Now, I want to direct your attention --

20 THE COURT: Sir, would you pull your chair up about 6
21 inches, please?

22 THE WITNESS: Yeah.

23 THE COURT: Are you able to scoot it up some?

24 MS. MOHSIN: Judge, I think his height is such --

25 THE COURT: If you're up against the --

1 THE WITNESS: I'm about that close.

2 THE COURT: Okay. Well, that's far enough. But do
3 try to keep your voice a little more firm, please.

4 THE WITNESS: All right.

5 THE COURT: Thank you. That will be fine, just like
6 that.

7 Go ahead, Ms. Mohsin.

8 MS. MOHSIN: Yes, your Honor.

9 BY MS. MOHSIN:

10 Q. Mr. Higgins, I want to direct your attention now to an
11 individual by the name of Chuck or Chucky. Are you familiar
12 with someone by that name or nickname?

13 A. Yes.

14 Q. Now, when you were a member and sometimes a leader of that
15 southern Tucson chapter, were there occasions that you were
16 aware of in which individuals in the community represented
17 themselves to be members of the Devils Diciples when, in fact,
18 they were not?

19 A. Yes.

20 Q. Is that something that happened on one occasion or more
21 than one occasion?

22 A. Probably a dozen times over ten years.

23 Q. Now, if someone represents themselves to be a member of the
24 Devils Diciples and they are, in fact, not a member of the
25 Devils Diciples, is that considered a problem for the club?

1 A. Yes.

2 Q. Why would that be a problem?

3 A. (No response.)

4 Q. Could you explain that to the jury?

5 A. I'm trying to think of how to explain that.

6 Q. All right.

7 A. Because they were doing illegal things in our name, you
8 know.

9 Q. So if someone were to say that they were a member of the
10 Devils Diciples and they were not, did that have an impact on
11 you, if you were the president?

12 A. Yes.

13 Q. What -- did it require any sort of a response?

14 A. Yeah. The first time, they would usually be talked to, and
15 it could escalate from that. I don't think it really ever
16 happened like that.

17 Q. So when you say they would be talked to, if an individual
18 represented themselves to be a member of this club and were
19 not, is that something that required them to -- required
20 someone to take affirmative steps --

21 A. Yes.

22 Q. -- from within the club?

23 And you said they would be talked to?

24 A. Yes.

25 Q. What type of talked to or talking to could be required?

1 A. Basically, just to discontinue that behavior or the matter
2 is going to escalate.

3 Q. Now, did there come a time -- you indicated that there were
4 a number of occasions over the ten years that you were a member
5 where people represented themselves to be members of the Devils
6 Diciples that were, in fact, not members; is that a fair
7 statement?

8 A. Yes.

9 Q. Was that sort of in connection with any other activity?
10 You had mentioned something about illegal activity? In other
11 words --

12 A. Drug dealing, yes.

13 Q. Drug dealing.

14 So were there occasions that you were aware of that
15 people said they were Devils Diciples when they were dealing
16 drugs?

17 A. Yes.

18 Q. Would there be, from your understanding, any benefit to
19 claiming that you were affiliated with a motorcycle club when
20 dealing drugs?

21 A. I don't know.

22 Q. But the club didn't like it?

23 A. No.

24 Q. Is that a fair statement?

25 A. That's correct.

1 Q. So did there come times where you were called upon to go
2 and talk to any of these individuals?

3 A. Yes.

4 Q. How many occasions did you, did you engage in that sort of
5 talking -- talked with someone?

6 A. Two or three times.

7 Q. And when you say that you talked to them, did it escalate
8 to violence on any of those occasions?

9 A. Once, yes, because I walked right in on a person doing it.

10 Q. Doing what?

11 A. Demanding that these people buy drugs from him, as if he
12 was a Devils Dicile.

13 Q. And so when you say it called for violence, what kind of
14 violence did it call for, from your point of view?

15 A. Fists.

16 Q. Fists?

17 A. Mh-hm.

18 Q. Was this individual someone who had been affiliated with
19 any motorcycle clubs?

20 A. No.

21 Q. And did you know this person?

22 A. No.

23 Q. How did it come to your attention that this person had been
24 selling drugs or needed to be talked to?

25 A. People had actually -- those individuals had come down in

1 the clubhouse and complained about it.

2 Q. The buyers?

3 A. Yes.

4 Q. And they had complained to the clubhouse about what?

5 A. Why were we doing that to them.

6 Q. Why were the Devils Diciples doing that to them?

7 At that time, what was your position? Were you a
8 chapter president or something --

9 A. No.

10 Q. -- something else?

11 A. I was an enforcer.

12 Q. Now, you said you were an enforcer. So when someone needs
13 a talking to, is that a job for the president, the enforcer, or
14 someone else?

15 A. Either the enforcer or the warlord.

16 Q. And so other than that occasion, were there any other
17 occasions where violence was required when you were asked to go
18 talk to someone?

19 A. No.

20 Q. And so on the occasions where you were asked to go talk to
21 someone, did you convince people to stop using the Devils
22 Diciples' name?

23 A. Yes.

24 Q. And you indicated that there were yet other occasions. I
25 want to direct your attention to this individual named Chuck.

1 And was this after Two Dogs was a member? Was there an
2 occasion where you learned that Chuck was doing that?

3 A. Yes.

4 Q. What did you learn?

5 A. That he was representing himself as a Devils D disciple.

6 Q. And was he doing that in connection with some other illegal
7 activity?

8 A. Yes, drug dealing.

9 Q. And so when you said that drug dealing, was he selling
10 drugs and claiming to be a member of the Devils D disciples, to
11 your understanding?

12 A. Yes.

13 Q. How was that information brought to your attention?

14 A. He had told numerous people that.

15 Q. And that word came back to you?

16 A. Yes.

17 Q. Were you the chapter president at the time?

18 A. I was.

19 Q. And was Two Dogs a member at the time?

20 A. He was also.

21 Q. By the way, how long in total was Two Dogs a member of the
22 Devils D disciples?

23 A. Two and a half, maybe three years.

24 Q. Two and a half to three years?

25 So during that period of time, was he also one of the

1 people that was left in the Box Canyon?

2 A. Yes.

3 Q. Kicked out of the club?

4 So during that two-and-a-half, three-year period of
5 time, would it be a fair statement that it would be between
6 2001 and 2003?

7 A. Yes.

8 Q. Did there come a time where you sent anyone to go deal with
9 Chuck?

10 A. Yes, there was.

11 Q. Can you tell the jury about that?

12 A. Doc and Golf Club and Two Dogs went to talk to him. And he
13 accidentally got shot with his own gun.

14 Q. Now, you said Doc, Golf Club and Two Dogs.

15 A. Yes.

16 Q. What were their roles in the club at that time?

17 A. Doc was the warlord. I don't believe either of the other
18 two had a position.

19 Q. And so Doc was the warlord, and Two Dogs and Golf Club,
20 were they newer members at the time?

21 A. Yes.

22 Q. And did you send Doc or did you send the other two to go
23 talk to Chuck?

24 A. I sent Doc.

25 Q. And what were your instructions to Doc about what was

1 supposed to happen?

2 A. To talk to him.

3 Q. And when you say to talk to Chuck, was it to dissuade him
4 from using the Devils Diciples' name?

5 A. Yes.

6 Q. And then did you accompany them?

7 A. No.

8 Q. Did there come a time where Doc came back to you, or
9 someone else came back to you, after they had talked to Doc?

10 A. Yes.

11 Q. And what did you learn?

12 A. That he had been accidentally shot.

13 Q. "He," meaning who?

14 A. Chuck.

15 Q. Chuck had been shot?

16 A. Mh-hm.

17 Q. And that occurred during this talking to?

18 A. Yes.

19 Q. What was your understanding about how he got shot?

20 A. There was an accident. I don't -- you know, the exact
21 conditions, I don't know.

22 Q. Did you know what happened to Chuck?

23 A. I believe Two Dogs shot him with his own gun. I don't know
24 how that transpired.

25 Q. Did -- with Chuck's own gun?

1 A. Yes.

2 Q. That's what you're saying? And what happened to Chuck
3 after that?

4 A. What happened to him is what?

5 Q. Did he survive?

6 A. Yes.

7 Q. All right. So did he -- was he, was he injured, obviously?
8 What did you know about that, as far as --

9 A. I don't know the extent of it.

10 Q. You don't know the extent of it.

11 Now, I want to direct your attention to --

12 A. I believe that he went to the hospital the next day.

13 Q. Okay.

14 A. But I'm not -- it was a .22. I don't know that for sure.

15 Q. And this was an incident that occurred between Chuck and
16 Two Dogs, as well as Golf Club and Doc; is that a fair
17 statement?

18 A. It was my understanding that Golf Club was outside, and Doc
19 and Two Dogs were inside with Chuck.

20 Q. And that Two Dogs was involved in the discharge of the
21 firearm; is that your understanding?

22 A. Yes.

23 Q. All right. I want to direct your attention now to an
24 individual by the name of Heather Ford. Are you familiar with
25 a female by the name of Heather Ford?

1 A. Yes.

2 Q. How are you familiar with her? How do you know this
3 person? Had you ever met her?

4 A. No.

5 Q. Were you aware of who she was, perhaps not her name?

6 A. That would be probably true, yes.

7 Q. How were you aware of who she was, but not her name?

8 A. I knew her fiancé.

9 Q. And --

10 A. Ex-fiancé. He was dead at the time I, believe.

11 Q. So you knew her fiancé when the fiancé was alive?

12 A. Yes.

13 Q. Who was the fiancé?

14 A. He was a stunt man. And he was a Hells Angel prospect at
15 the time he died.

16 Q. Now, he was a prospect for the Hells Angels Motorcycle
17 Club?

18 A. Yes.

19 Q. What was his nickname?

20 A. "Ringo."

21 Q. And you indicated that he was also a stunt man, like a real
22 stunt man, that as a job?

23 A. A real stunt man, yeah.

24 Q. And did you know him before he was a prospect for the Hells
25 Angels?

1 A. Yes, much before.

2 Q. And what circumstances did you know him before that?

3 A. (No response.)

4 Q. As a member of a motorcycle club?

5 A. No.

6 Q. Just from the community?

7 A. Yeah.

8 Q. All right. At some point did you become aware that Ringo
9 was a prospect for the Hells Angels?

10 A. Yes.

11 Q. Now, I want to talk about the Hells Angels for a minute.
12 You indicated that the Devils Diciples had one chapter in
13 southern Arizona.

14 A. Yes.

15 Q. Did the Hells Angels have any chapters in Arizona?

16 A. Yes.

17 Q. How many chapters did you know them to have in Arizona?

18 A. I couldn't tell you that. More than two.

19 Q. All right. More than two?

20 A. Yes.

21 Q. More than three?

22 A. I don't really know.

23 Q. All right. Did they have a chapter in southern Arizona?

24 A. Yes.

25 Q. Did they have a chapter in northern Arizona?

1 A. Yes.

2 Q. Did you know any of the members?

3 A. Some of them.

4 Q. And did you know whether or not they were a more powerful
5 motorcycle gang than the Devils Diciples?

6 A. In Arizona? Certainly.

7 Q. All right. And when you say "certainly," is that based
8 upon their numbers --

9 A. Yes.

10 Q. -- or some other fact?

11 A. Yes, their numbers.

12 Q. About how many Devils Diciples did you know were in
13 southern Arizona, or all of Arizona at that time, 2003?

14 A. Maybe ten.

15 Q. And did you have any understanding of how many Hells Angels
16 were in Arizona at that time?

17 A. More than 50.

18 Q. More than 50?

19 A. Mh-hm.

20 Q. Now, you had indicated that you had been a member of the
21 Boozefighters before you became a Devils Diciples?

22 A. That's correct.

23 Q. So during your years as a member of these two motorcycle
24 clubs, had you ever had any encounters from anyone with the
25 Hells Angels?

1 A. Well, they weren't always present in Arizona, you know. So
2 very little, I would say.

3 Q. So you said they weren't always present.

4 A. No.

5 Q. Do you know -- did there come a time where -- withdrawn.

6 When you were first a member of the Boozefighters, did
7 they have a presence in Arizona?

8 A. No.

9 Q. Did there come a time where they developed a presence in
10 Arizona?

11 A. Yes.

12 Q. And did that come about at a certain time period?

13 A. About the time that I became a Devils Dicle.

14 Q. And were they in some sort of -- did 50 members all come at
15 once or did they expand over time?

16 A. No. They took over another club that had been in Arizona
17 from the '60s.

18 Q. What was that club?

19 A. Dirty Dozen.

20 Q. So the Dirty Dozen had been in Arizona since the '60s. Was
21 that a large club?

22 A. Fairly large.

23 Q. Did the Hells Angels patch over all of those Dirty Dozen
24 folks?

25 A. No.

1 Q. So how did they take it over?

2 A. They patched over the ones -- some of them didn't want to
3 change, you know, so they just retired.

4 Q. And so some of them did?

5 A. Yes.

6 Q. Did the Dirty Dozen stop existing --

7 A. Yes.

8 Q. -- at that point?

9 A. Yes.

10 Q. So based on your experience with motorcycle clubs, was the
11 Hells Angels one of the larger clubs in Arizona?

12 A. Yes.

13 Q. Was it the largest club in Arizona?

14 A. Yes.

15 Q. And did you know whether or not they had chapters in other
16 states?

17 A. Yes, certainly. Other countries even.

18 Q. And in other countries.

19 And you were aware of all of this?

20 A. Yes.

21 Q. So you indicated that Heather Ford or a woman that you
22 understood to be associated with Ringo, that he had a fiancée;
23 is that a fair statement?

24 A. Yes.

25 Q. How did you come to be aware that he had a fiancée, or

1 someone that he was affiliated with?

2 A. I think he told me that.

3 Q. When he was alive?

4 A. Mh-hm.

5 Q. While he was a prospect for the Hells Angels?

6 A. I don't think he had started that yet.

7 Q. All right. And did there come a time where you learned
8 whether or not they had any children?

9 A. I don't think that they had any children together, no.

10 Q. All right. Now, did there come a time that after he passed
11 away, where you were once again made aware of this female?

12 A. Maybe.

13 Q. All right. When did you first become aware of this female?

14 A. As opposed to what happened at the clubhouse?

15 Q. Correct.

16 A. (No response.)

17 Q. There comes a time where you see her at the Tucson
18 clubhouse, correct?

19 A. Oh, yeah.

20 Q. All right. Did you know about her before that?

21 A. Would you clarify that?

22 Q. Other than the fact that she was the --

23 A. The victim?

24 Q. Well, I'm going to back it up.

25 Before the clubhouse, did you have any involvement,

1 knowledge, or interaction with this female before the
2 clubhouse?

3 A. I'm not sure that I knew that was her. I know that one of
4 the other members had let someone stay at his house, and that
5 she had been stealing his property and been evicted from there.

6 Q. All right. So now, let's, let's bring that into focus. I
7 want to direct your attention to the early part of 2003. Were
8 you the chapter president in southern Tucson at the time?

9 A. I believe so.

10 Q. And was Two Dogs a member?

11 A. Yes.

12 Q. Who were some of the other members of that chapter at that
13 time?

14 A. Doc, Dean, Panhead, Mac Tonight. Mexican John was
15 inactive.

16 Q. Was Golf Club a member?

17 A. Yes. Golf Club, Johnny Old School. Who am I forgetting?

18 Q. Was Cuz a member?

19 A. Yes. Cuz.

20 Q. Was there a member named Huevos?

21 A. Huevos, yes.

22 Q. All right.

23 A. I think that's about all of them.

24 Q. All right. So to recap, you mentioned Cuz, Doc, Mac
25 Tonight, Huevos, Johnny Old School, Dean, Golf Club, and

1 Panhead Mike; is that accurate?

2 A. Yes.

3 Q. All right. Now, in the early part of 2003, you mentioned a
4 guy by the name of Johnny Old School.

5 A. Mh-hm.

6 Q. When did he become a member of the Devils Diciples?

7 A. At the same time as Golf Club.

8 Q. So Johnny Old School and Golf Club, had they been new
9 members at the time?

10 A. Yes.

11 Q. Had they been patched recently?

12 A. Yes.

13 Q. I want to direct your attention to Panhead Mike. You
14 mentioned him. How long had he been a member of the Devils
15 Diciples in early of 2003?

16 A. Maybe three years.

17 Q. Okay. And you also mentioned an individual by the name of
18 Dean. How long had Dean been a member of the Devils Diciples?

19 A. About the same length as Panhead.

20 Q. All right. So a couple years?

21 A. Yeah.

22 Q. Huevos, how long had he been a member?

23 A. About a year longer.

24 Q. So four years?

25 A. Mh-hm.

1 Q. Okay. What about Doc, Mac Tonight and Cuz?

2 A. Doc was, was in the chapter longer than I was.

3 Q. And how about Cuz?

4 A. Cuz, 30 years.

5 Q. And what about Mac Tonight?

6 A. A long-time member.

7 Q. Longer than you?

8 A. Yes.

9 Q. All right. So you were the chapter president and there
10 were a few newer guys and a couple that had been around for a
11 year or two; is that a fair statement?

12 A. Mh-hm.

13 Q. And then some older members?

14 Now, you said you had become aware there had been a
15 female living at one of the members' houses?

16 A. Yes.

17 Q. Whose house was this female living in?

18 A. Panhead's.

19 Q. Panhead Mike's?

20 A. Mh-hm.

21 Q. And he had been a member for a couple years at this point?

22 A. Yes.

23 Q. And who brought that to your attention?

24 A. I believe Mike did. He was working in San Diego.

25 Q. Panhead Mike?

1 A. Mh-hm.

2 Q. And he had a house in Tucson?

3 A. He rented a house in Tucson, yes.

4 Q. And did he allow someone to live there?

5 A. Yes. He allowed Heather to live there.

6 Q. Now, did you know, at the time that he allowed Heather to
7 live at this apartment, that she had been the fiancée of Ringo?

8 A. Not initially, no.

9 Q. That's something you learned later?

10 A. Mh-hm.

11 Q. So at the time, all you knew was that she was renting a
12 house from Panhead Mike; is that a fair statement?

13 A. Yeah. And I had not seen her at that time.

14 Q. You didn't meet her or anything; you just knew about her?

15 A. Yes.

16 Q. Was there information provided to you about her activities
17 at that house?

18 A. Very shortly before all that, that incident transpired
19 there, yes.

20 Q. And was Mike, Panhead Mike, the one who gave you that
21 information?

22 A. Yes.

23 Q. What was the nature of the information that he gave you
24 about her activities at his rental house?

25 A. That she had been taking his property to the swap meet, had

1 been selling it, and that he had wanted her out of there. The
2 landlord had evicted her and then a sheriff caught her there
3 afterwards. So there were all three incidents.

4 Q. Was there any discussion at any time about any sort of drug
5 use?

6 A. No, I don't think so.

7 Q. Was there any discussion any time about any sort of drug
8 debt?

9 A. No.

10 Q. So after you receive this information from Panhead Mike,
11 did you meet her at some point?

12 A. Yes.

13 Q. All right. Now, would that have been at the clubhouse?

14 A. Yes.

15 Q. All right. How long after you received this information
16 did the events take place at the clubhouse?

17 A. Not long. A couple days maybe.

18 Q. A couple of days?

19 A. Mh-hm.

20 Q. And I want to direct your attention now to the first week
21 of April of 2003.

22 Once again, were you the chapter president at that
23 time?

24 A. Yes, I was.

25 Q. And where were you living?

1 A. At the clubhouse.

2 Q. When you say you were living at the clubhouse, were you
3 living inside the clubhouse or at some other place?

4 A. No. I was -- I had brought my trailer from where I used to
5 live, down there. And I lived out behind the clubhouse.

6 Q. In a trailer?

7 A. Yes.

8 Q. And who did you live with?

9 A. My wife and brother-in-law.

10 Q. What was your wife's name?

11 A. Terri.

12 Q. Terri?

13 A. Mh-hm.

14 Q. And how long had you been married?

15 A. Well, we've been married almost 18 years now, so that -- I
16 don't know what that would have been then. Maybe five or
17 something.

18 Q. And you're still married to her?

19 A. Yes.

20 Q. Now, you indicated your brother-in-law. Would that be her
21 brother?

22 A. Yes.

23 Q. And had you been living there for any period of time?

24 A. Maybe seven or eight months.

25 Q. So in that first week of April of 2003, there was some

1 things that happened inside the clubhouse, yes?

2 A. Yes.

3 Q. I want to direct your attention to that. Where were you on
4 that day, on April, you know, the earlier part of that day?

5 A. Out back for the second day trying to repair the generator
6 so we could have water and, and power.

7 Q. So you're -- was your club powered by a generator?

8 A. Yes.

9 Q. And by the way, was this a particularly large structure or
10 a small structure?

11 A. I don't know square feet-wise. It was like three small
12 apartments and then a larger area, maybe a third the size of
13 this room, maybe.

14 Q. So the room that you're describing, that was a third the
15 size of this room?

16 A. Yeah.

17 Q. This courtroom.

18 Was that sort of a common area for the club members to
19 use?

20 A. Yes.

21 Q. And the three apartments that you described, were they
22 residences of any kind for members to live in?

23 A. Sometimes.

24 Q. And the room that you're describing that was the common
25 area, can you describe generally what it looked like?

1 A. Well, the whole place was L-shaped, with the three
2 apartments in a row and then the other area. And that was
3 divided into, like, three rooms.

4 Q. So separate from the apartments?

5 A. Great big one, one behind it, and then one over here with a
6 pool table in it.

7 Q. So there were three apartments that were on one side of the
8 "L," and on the other side of the "L," you said that there were
9 another three rooms. One had a pool table in it, one was a
10 common area?

11 A. Yeah. One was empty, yeah.

12 Q. And one was empty.

13 So the one that was a common area, did it have a bar,
14 or --

15 A. Yes. It had a bar in it and --

16 Q. What else?

17 A. Fireplace.

18 Q. Were there any seating?

19 A. Yeah, a couch. I think there was a couch and some stools
20 at the bar.

21 Q. All right. Now, you're out behind this structure, this
22 L-shaped structure?

23 A. Yes.

24 Q. Is that where the generator is located?

25 A. Yeah.

1 Q. And you indicated that this was the second day you had been
2 trying to repair it.

3 A. Mh-hm.

4 Q. About what time of day is this?

5 A. Three in the afternoon, I think.

6 Q. So what happens after you're out there -- first of all, are
7 you by yourself or are you working alone or is there someone
8 with you?

9 A. I think Golf Club and I were working on it.

10 Q. Okay. And you're trying to repair it?

11 A. Yes.

12 Q. And what happened?

13 A. My wife came out and -- from the front of the clubhouse and
14 said that something was happening in there; I needed to go and
15 do something about it.

16 Q. So your wife, had she been inside the clubhouse or she came
17 from somewhere else?

18 A. I think she drove up while this was happening and went to
19 walk through there, you know, because nothing was happening, to
20 get to the back. She come to the trailer, yeah.

21 Q. All right.

22 A. Well, there was -- the whole place is fenced in and people
23 parked outside. So they -- you know, that's what she would
24 have been doing.

25 Q. Is traveling through the clubhouse to get to the back?

1 A. Yes.

2 Q. And she came to you. And when she came to you, what was
3 her demeanor?

4 A. Agitated, maybe.

5 Q. All right. And was she concerned in any way?

6 A. Yes.

7 Q. And did she express that to you in any way?

8 A. Yeah. And then we all got up and went in there.

9 Q. All right. Did Golf Club accompany you?

10 A. Yes.

11 Q. All right. What did you see when you went in there?

12 A. There were two other women there, along with Two Dogs and
13 I'm going to say Johnny and Heather, and she was sitting naked
14 in the chair on the other side of the bar.

15 Q. And when you say that she was sitting in a chair and she
16 was naked, what were these other individuals doing while she
17 was sitting in a chair?

18 A. Well, the one girl, Tina Butts, which I believe was her god
19 -- her children's godmother, they were -- looked like they had
20 just got done fighting.

21 Q. When you say "it looked like they had got done fighting,"
22 how would you know that?

23 A. Because Tina was still yelling and she's standing right
24 over her.

25 Q. All right. Did this woman appear to be physically injured?

1 A. I think she had a broken finger.

2 Q. All right. Were there other injuries on her --

3 A. Not --

4 Q. -- that you could see?

5 A. Not that I could see. No.

6 Q. And what were the other people doing?

7 A. I got a phone call right in the middle of all of this from
8 Panhead Mike, and it was extremely irritating. So I went
9 outside to try to deal with this, because it became apparent
10 that is who caused this to happen, right? He must have called
11 Two Dogs and said, "Grab her up, she's stealing my stuff," or
12 whatever. And he was talking to me on the phone. And he
13 wanted her hurt and everything else. And I just gave the phone
14 away. I said, you know, boy.

15 Q. So what did you do?

16 A. I went in. I stopped it. Had them take her somewhere
17 else. And then, you know, wanted to figure out what I could
18 do, you know.

19 Q. So when you came into the clubhouse, you said that you had
20 observed these other individuals along with Heather.

21 A. Yes.

22 Q. And were, were -- was there any -- and you observed an
23 injury to her hand.

24 A. Yes.

25 Q. Did you observe any other injuries to her?

1 A. No, not at that time. I found out afterwards, by
2 questioning the people that were there, I found out there was
3 more damage or injuries.

4 Q. And when you said that you stopped it, how did you do that?

5 A. I just told them to stop. I mean, if you read her
6 testimony, she mentioned a statement --

7 Q. Without going into her testimony.

8 A. Yeah, I know that. But I'm saying that's what she said.

9 Q. All right. So you said stop it?

10 A. Yeah.

11 Q. And did you enforce that order?

12 A. Yes, I did.

13 Q. And what happened next to Heather Ford?

14 A. She was given her clothes back and, and a soda.

15 Q. And where did she go?

16 A. To Mac Tonight's.

17 Q. Did you talk to her at all?

18 A. No. Well, a little bit. Not much.

19 Q. After she was taken to Mac Tonight's, did you talk to the
20 people who had been there?

21 A. Yes.

22 Q. And did they tell you some of the things that had gone on
23 in the clubhouse?

24 A. Yes.

25 Q. And did they tell you about the types of things that they

1 had done?

2 A. Yeah. Tasing, and Johnny had said that he had hit her
3 once.

4 Q. Now --

5 MR. PITTS: Can you speak up a little bit, please?

6 THE WITNESS: Yes.

7 MR. PITTS: Into the microphone?

8 THE WITNESS: I know that a taser was used on her,
9 because it was admitted to me, and also physical violence from
10 two of them.

11 BY MS. MOHSIN:

12 Q. All right. And as a result of this -- withdrawn.

13 Did you find that out that day? Did you talk to the
14 people who had been inside the clubhouse that day?

15 A. Yes.

16 Q. And after you found out what had happened, what steps did
17 you take next?

18 A. In what way?

19 Q. What did you do about it? Were you concerned about it?

20 A. I did not think that she was injured as bad as she was.

21 Q. You didn't realize it?

22 A. No.

23 Q. And was that based on what you had seen?

24 A. Yes.

25 Q. But after you had talked to these individuals and they

1 admitted to you what they had done, did you revise your opinion
2 in any way?

3 A. No.

4 Q. Did there come a time where you learned she had been
5 seriously injured?

6 A. Well, eventually I got arrested, you know. But that was
7 probably the first time I seen all of it.

8 Q. All right. So after you had seen her and talked to these
9 individuals, did you have any concerns about whether or not the
10 assault that had occurred on her would be -- would have an
11 impact on you or on the Devils Diciples?

12 A. Yes.

13 Q. All right. And what was that concern?

14 A. It shouldn't have happened.

15 Q. Did you have --

16 A. I was responsible regardless of it, you know. I had no
17 prior knowledge that that was going to happen, but yeah, I
18 believe there would be repercussions over it.

19 Q. When you say "repercussions," did you believe any of the
20 repercussions would be related to the motorcycle community?

21 A. Yeah.

22 Q. Tell the jury what repercussions you were concerned about,
23 as they relate specifically to the motorcycle community.

24 A. Well, I mean, just within the club itself.

25 Q. All right. Within the Devils Diciples?

1 Now, did there come a time where you found out this
2 woman was the same woman that had been engaged to Ringo?

3 A. Yes.

4 Q. And when did you find that out?

5 A. Maybe the next day or so.

6 Q. Did you have a meeting with the Hells Angels?

7 A. Two times, yes.

8 Q. All right. And the meetings that you had with Hells
9 Angels, did they occur on the same day or in close proximity to
10 this event?

11 A. I would say twice within a week.

12 Q. So when this event occurred, did you contact anyone about
13 this event in the Hells Angels?

14 A. Yes.

15 Q. Who did you contact?

16 A. "Joe Joe."

17 Q. Did you ever contact Fang?

18 A. I think Doc did, yes.

19 Q. Okay. Who is Fang, and who are Joe Joe?

20 A. The president and the warlord in Tucson.

21 Q. Go ahead.

22 A. That's who they were, the president and the warlord of the
23 Tucson chapter.

24 Q. Of the Hells Angels?

25 A. Yeah.

1 Q. Which one was the president and which one was the warlord?

2 A. Fang was the president.

3 Q. And Joe Joe was the warlord?

4 Did you have any independent affiliation or
5 relationship with either of those two men?

6 A. What do you mean?

7 Q. Did you know them?

8 A. Yes.

9 Q. How did you know them?

10 A. From the Dirty Dozen days.

11 Q. So you knew them personally. You had interacted with them?

12 A. I knew Joe Joe fairly well, yes.

13 Q. So when, when there was some communication with Fang, you
14 indicated that you believe it was Doc?

15 A. Mh-hm.

16 Q. How did you know that?

17 A. Well, that -- Doc and I were the only ones doing any
18 communicating, so I don't believe I did it. So he did. And
19 then they established this meeting with Joe Joe.

20 Q. And so when you say "they," are you referring to Doc?

21 A. Yeah.

22 Q. And Fang?

23 A. Yeah.

24 Q. What was Doc's role in the club at that time?

25 A. Warlord.

1 Q. He was the warlord?

2 So did you meet face-to-face with Joe Joe?

3 A. Yes.

4 Q. Did you go on your own or with another individual?

5 A. I believe we met at Doc's house.

6 Q. You and Joe Joe met at Doc's house?

7 A. And Doc.

8 Q. And Doc was present as well?

9 A. Yes.

10 Q. And what was the purpose of this meeting?

11 A. To explain what had happened.

12 Q. To Joe Joe?

13 A. Mh-hm.

14 Q. Why did you feel that you had to explain what had happened
15 to Joe Joe?

16 A. (No response.)

17 Q. Why does he have to know about it?

18 A. Because she was affiliated with them.

19 Q. All right. And so even if she was affiliated with them,
20 why does that make a difference?

21 A. Well, it would have to us, you know.

22 Q. Was there some sort of a concern about her relationship
23 with the Hells Angels on your end, in other words, the nature
24 of her relationship?

25 A. Yes.

1 Q. Can you explain that, please?

2 A. How can I explain it? It's like a family member, you know.
3 So of course there's going -- there was concern.

4 Q. If someone assaults a female who is affiliated with a
5 patched member of the Devils Diciples, is that like an
6 assault --

7 A. Yes.

8 Q. -- on the Devils Diciples?

9 A. Yes, it is.

10 Q. And if someone were to assault a female who is affiliated
11 with the Hells Angels, is that like an assault on the Hells
12 Angels?

13 A. I can't speak from that experience, but I would presume so.

14 Q. And when you say you would presume so, is that based upon
15 your years of involvement in the motorcycle club community?

16 A. Some motorcycle clubs, it would be, and some, it wouldn't
17 be, you know. I don't -- I didn't -- I don't have specific
18 knowledge of the Hells Angels.

19 Q. Well, when you talked to Joe Joe, did he express he was
20 concerned to you about it?

21 A. He wasn't, but he said some of the guys from up north were.

22 Q. And when you -- what was the purpose of you communicating
23 with Joe Joe? In other words, what did you say to him?

24 A. That would have happened any time there was any kind of
25 incident between any, you know, any of the clubs, just so that

1 there wouldn't be any, you know, problem.

2 Q. All right. And so when you went to talk to Joe Joe, did
3 you explain what had happened?

4 A. Yes.

5 Q. And did it appear that he was already aware of it?

6 A. Yes. I believe he was already aware of it.

7 Q. And what -- how did you leave it with him at the meeting?

8 Was there any further action that needed to be taken?

9 A. No.

10 Q. Did he -- was he going to communicate with his leadership?

11 A. Yes.

12 Q. All right. Was he going to contact you again?

13 A. Yes.

14 Q. And --

15 A. In fact, we did a few days before the Box Canyon stuff.

16 Q. So in this first meeting that you had with Joe Joe, how did
17 you leave things with him? Were you supposed to wait to hear
18 back from him?

19 A. Yes.

20 Q. And did he express any -- withdrawn.

21 After that first meeting with Joe Joe, how long of a
22 time period passed before he contacted you or you contacted him
23 again?

24 A. Maybe three days.

25 Q. All right. And during that time period, had you had any

1 discussion with any of the DDMC, the Devils Diciples national
2 leadership?

3 A. No.

4 Q. So you didn't contact Fat Dog?

5 A. No.

6 Q. Or any of the other national leaders or warlords?

7 A. No, I did not.

8 Q. Did there come a time then that you had a second meeting
9 with Joe Joe?

10 A. Yes.

11 Q. And it was a face-to-face meeting?

12 A. Yes.

13 Q. Where did that take place?

14 A. Doc's.

15 Q. Same place, at Doc's house? Who else was there?

16 A. Just Doc and myself.

17 Q. And what was relayed to you during that meeting?

18 A. If everything was all right.

19 Q. And who relayed that to you?

20 A. Joe Joe.

21 Q. So when you -- did you leave the meeting believing that
22 there were going to be any repercussions from the Hells Angels
23 in connection with Heather Ford?

24 A. No.

25 Q. And so did you report this communication to the national

1 leadership?

2 A. No, I did not.

3 Q. Why not?

4 A. I didn't think it was necessary.

5 Q. Had the Hells Angels told you, or Joe Joe from the Hells
6 Angels told you that it was a problem, that they were not going
7 to be satisfied with your answers, did you have any obligations
8 as the chapter president to do anything about that?

9 A. Yes. I would have reported that.

10 Q. And why would you have done that?

11 A. For the safety of the members.

12 Q. And when you say "the safety of the members," what would --
13 what would the threat be?

14 A. It wouldn't necessarily have to be -- I wouldn't have to
15 know what the threat is, just if it's possible, you know.

16 Q. Possible in what way, is what I'm asking?

17 A. Injury. Whatever.

18 Q. From who? You have to say it.

19 A. Injury from the Hells Angels? What? Is that what you want
20 me to say?

21 Q. I want you to tell the jury what the threat was and where
22 it was coming from.

23 A. But there wasn't one; that's what I'm saying.

24 Q. All right. If there had been one --

25 A. Okay.

1 Q. -- if there had been --

2 A. I got you now.

3 Q. All right.

4 A. All right.

5 Q. All right. So if they had been dissatisfied, would you
6 have had to report that to anyone?

7 A. Yes, I would.

8 Q. And who would you report that to?

9 A. Probably Dog. Fat Dog.

10 Q. Fat Dog.

11 A. Mh-hm.

12 Q. Now, in this instance, you believe there was no threat?

13 A. Right.

14 Q. And you did not communicate with anyone?

15 A. No.

16 Q. So what happens next?

17 A. The, the whole beating.

18 MR. PITTS: Can he keep his voice up, please?

19 THE WITNESS: Excuse me?

20 THE COURT: Yes. Yes, sir. Thank you, Mr. Pitts.

21 You can address that to the Court or to Ms. Mohsin.

22 MR. PITTS: Thank you.

23 THE COURT: Your earlier one you directed to the
24 witness. It's not your turn yet.

25 Go ahead, Ms. Mohsin.

1 BY MS. MOHSIN:

2 Q. Mr. Higgins, I'm going to ask you to keep your voice up so
3 everyone can hear you, sir.

4 After this meeting that you had with Joe Joe, you said
5 that it was a few days before the Box Canyon thing.

6 A. I think so.

7 Q. Did anything happen between this meeting with Joe Joe and
8 the Box Canyon thing? By that, I mean were there any
9 additional meetings or communications with either the Hells
10 Angels or the leadership of the Devils Diciples?

11 A. No.

12 Q. So I want to direct your attention now to April the 27th of
13 2003. Did you have a church meeting on that date at the, at
14 the clubhouse?

15 A. Yes.

16 Q. And so this was about two days later; is that accurate?

17 A. I think there was about two and a half, three weeks between
18 everything in that. I'm not sure exactly where it fell, the
19 first week in April and then the last week it happened.

20 Q. So the first week in April would have been what happened
21 with Heather Ford?

22 A. Right.

23 Q. And the last week in April is when the Box Canyon event
24 occurred?

25 A. So two weeks maybe between those incidents.

1 Q. And your communications with Joe Joe, would they have
2 occurred in between that time period?

3 A. Yes.

4 Q. So I want to direct your attention to April the 27th. Was
5 there a church meeting on that day?

6 A. Yes.

7 Q. And who was that church meeting for?

8 A. Us.

9 Q. And when you say "us," was it just the southern chapter
10 members?

11 A. That's all that I was expecting, yes.

12 Q. Was it expected to be a usual or ordinary church meeting?

13 A. Yes.

14 Q. And again, are you still the chapter president?

15 A. Yes, I was.

16 Q. Do nomads ever attend these church meetings?

17 A. String Bean frequently did.

18 Q. How about Smoky or Grog? Did they normally attend these
19 meetings?

20 A. Sometimes. Grog was from a northern part of the state.

21 Q. All right. So on this particular day, did you have --
22 again, are you living at the clubhouse still?

23 A. Yes.

24 Q. Is your wife still living there?

25 A. Yes.

1 Q. Is your brother-in-law still living with you?

2 A. Yes.

3 Q. And did you have an expected time where this meeting was
4 going to begin?

5 A. Usually in the afternoon, some time after noon.

6 Q. And so tell the members of the jury where you were when --
7 right before this meeting occurred.

8 A. We had given up on the old generator and got a new one.

9 And I was trying to get that -- we did get it hooked up and
10 running, wired into the building. That's what I was working
11 on.

12 Q. So you were working on this generator?

13 A. Yeah.

14 Q. And what happens? Are you outside? I'm sorry. Are you
15 outside the clubhouse?

16 A. Yeah. Outside.

17 Q. What happens?

18 A. I'm trying to think exactly. We just had just gotten the
19 generator going, so then we got to run the well, fill up the
20 water tank and all that so all the toilets and everything
21 worked, you know. And about --

22 Q. Can you shift that microphone a little bit? Yeah, right
23 there, please.

24 A. All right. Is that better?

25 Q. Yes.

1 A. All right. People started to arrive and it was obvious
2 that it was a lot more than just southern Arizona.

3 Q. Did you see how they arrived?

4 A. Cars.

5 Q. In vehicles?

6 A. Mh-hm.

7 Q. And did you see one vehicle or multiple vehicles?

8 A. Multiple vehicles.

9 Q. And were there any number of people? In other words, can
10 you tell us how many you saw, or an approximation?

11 A. A lot. I guess maybe altogether between Arizona and
12 California, maybe 20 people.

13 Q. And did you see how they came out of the vehicles? Did
14 they come out in any particular way?

15 A. Not initially. But then again, I was, I was inside at this
16 point.

17 Q. So at what point did you go inside the clubhouse?

18 A. Right when they started driving up.

19 Q. And where were you inside the clubhouse?

20 A. Behind the bar.

21 Q. Is that in that common area that you had described earlier?

22 A. Yes.

23 Q. The one that's about a third of the size of this room?

24 A. Yeah.

25 Q. And you said you were behind the bar. Who else was inside

1 of the clubhouse at that time from the southern Arizona
2 chapter; if you recall?

3 A. I think Johnny Old School -- well, Doc and everyone came
4 with them in the car. So Doc was sitting at the bar. Holiday
5 was at the end of the bar, and I think Little John, by the
6 window. I'm not sure. I think that there were some -- a lot
7 of them outside still.

8 Q. Now, before these vehicles pulled up, did any of the other
9 southern Arizona chapter members arrive in anticipation of this
10 church meeting?

11 A. All of them.

12 Q. Directing your attention to Huevos and Dean.

13 A. Oh, yeah. They came by earlier before the church. Huevos
14 and Dean rode up there when we were still working on that
15 generator.

16 Q. And was there anything in particular that you noticed or
17 that was noticeable about one or both of them?

18 A. Yeah. Dean was wearing a pistol, which was unusual for
19 him.

20 Q. And did you see Johnny Old School attend church that day?

21 A. Yes.

22 Q. How about Golf Club?

23 A. Golf Club was living in the first apartment at that time.
24 So I think that's where he was.

25 Q. Did you see Panhead Mike at this church meeting?

1 A. I didn't see him until the end of it.

2 Q. So he was there at some point?

3 A. Yeah. He may have been outside.

4 Q. And did you see Two Dogs?

5 A. Yeah. He was inside.

6 Q. All right. I want to direct your attention now to some of
7 the members that you saw, the 20 or so people that were coming
8 into the clubhouse for this meeting. You said they were not
9 expected?

10 A. No.

11 Q. Now, you mentioned Holiday and Little John?

12 A. Yes.

13 Q. Did Little John at that time hold any position of any
14 authority within the Devils Diciples?

15 A. He was a boss of California.

16 Q. And was this a state boss of some kind?

17 A. Yeah.

18 Q. And what about other individuals did you see?

19 A. Moses, Crusher, Holiday. Who else? Grog.

20 Q. Did you see Smoky?

21 A. Yes.

22 Q. And did you see String Bean?

23 A. No.

24 Q. Did you see an individual by the name of Wizard?

25 A. Yes, I did.

1 Q. Was he a southern Arizona chapter member by this point?

2 A. Yes.

3 Q. And you mentioned that you saw Doc.

4 A. Yeah. Doc was inside.

5 Q. Did you see Mac Tonight?

6 A. Later. He was outside at that point.

7 Q. And how about an individual with the name of Kick Start or
8 Kickstand?

9 A. Yeah. I don't, I don't know what his name was, but he was
10 there.

11 Q. All right. Now, were there others there whose names you
12 don't know or recall?

13 A. It's possible.

14 Q. Now, after these guys came into the clubhouse, what
15 happens? What's your expectation and what occurs?

16 A. I probably started it because I -- one of the concepts in
17 that, in that club was that black eyes were free. And I
18 figured I had that coming. So I took my glasses off and walked
19 up to Holiday and I got a black eye.

20 Q. Now, you said that you -- you said a lot of things there.
21 "Black eyes are free," what does that mean?

22 A. That if you were to mess up, you know, that was a common
23 accepted -- what would I call it -- punishment or -- yeah, I
24 would call it that.

25 Q. A punishment?

1 A. Mh-hm.

2 Q. And why did you think that you were going to get a
3 punishment?

4 A. Because I was responsible.

5 Q. And what were you responsible for?

6 A. What had happened to Heather.

7 Q. So when you saw all these guys and they came in, you felt
8 like you had been responsible for what had occurred in the
9 clubhouse?

10 A. I was the boss. Whether, you know, I was directly culpable
11 or not didn't matter, you know. I mean, it was my
12 responsibility.

13 Q. And so when you said you saw Holiday --

14 A. Mh-hm.

15 Q. -- and you walked up to him and you took your eyeglasses
16 off, did someone say anything to you at this point?

17 A. I think Doc said, "You're not going to like this."

18 Q. And so when you saw Holiday, did you tell him give me a
19 black eye?

20 A. No.

21 Q. Or something like that?

22 A. No. No. No.

23 Q. What happened?

24 A. He had tears in his eyes.

25 Q. And what did he do?

1 A. Gave me a black eye.

2 Q. All right. How did he do that?

3 A. He hit me in the eye.

4 Q. With what?

5 A. His fist.

6 Q. And how hard did he hit you?

7 A. It was a pretty good whack.

8 Q. All right.

9 A. It knocked me across the bar.

10 Q. All right. It knocked you across the bar?

11 A. Yeah. It broke my cheek and my eye socket. I didn't know
12 that then.

13 Q. All right. And so after you were knocked across the bar,
14 what happens next?

15 A. I believe that everybody was getting beat about then. I
16 shook my head and someone hit me in the head with what I
17 believed was Johnny Old School's pistol, which was a Ruger
18 Vaquero single action, which that's not safe to have a, you
19 know, round chambered under there because if it fell or
20 something, it could go off. Well, it did go off.

21 Q. And it was hit -- you feel like you were hit with it?

22 A. I know I was hit with it.

23 Q. Did you see it before it hit you?

24 A. No, I did not.

25 Q. What did you hear?

1 A. I had powder burns on my face. I thought I was shot in the
2 head.

3 Q. All right. And in that moment when the gun went off, did
4 you think it had hit you?

5 A. Yes.

6 Q. All right. So what happens next?

7 A. I was down on the floor.

8 Q. And what's going on around you? Do you know or can you
9 perceive it?

10 A. Fighting is going on. I can't see it because the bar is
11 right there. Somebody zip-tied my hands up and put a gun to my
12 head.

13 Q. Did you know who that was?

14 A. I believe it was the person you were talking about,
15 Kickstand or -- I don't know. He was a brand-new brother from
16 California.

17 Q. And could you see or understand or hear anything going on
18 around you? Were there people speaking or talking or doing
19 something else?

20 A. I heard Doc try to, try to stop it or, or slow it down and
21 him yelling. He was the closest person to me on the other side
22 of the bar. But I could just hear all kinds of stuff, noise
23 outside, which later turned out to be them wrestling with Golf
24 Club.

25 Q. Now, when you're lying on the ground and you said your

1 hands were zip-tied --

2 A. Mh-hm.

3 Q. -- did -- were you assaulted in any other way while you're
4 lying on the ground?

5 A. Yeah. But I was so far into shock it didn't -- I mean, I
6 didn't feel it, you know, honestly.

7 Q. What type of things do you think were happening to you that
8 you didn't feel?

9 A. I got tasered. I could hear it. I didn't feel it. Kick
10 and punched, you know.

11 Q. On one occasion or on more than one occasion?

12 A. It would be difficult to say.

13 Q. Okay.

14 A. Like, I, I could hardly, you know, comprehend this was
15 happening in the first place. And I thought, boy, if I lose
16 consciousness, I'm not going to wake up. That's what I
17 thought.

18 Q. And were you being assaulted by one person or could you
19 perceive if there were more than one person?

20 A. It was probably not so bad after I quit trying to get up,
21 you know.

22 Q. So did you think it was one person or did you think it was
23 more than one person?

24 A. I don't know. I really don't know.

25 Q. Now, did there come a time where you were moved --

1 A. Yes.

2 Q. -- from the floor?

3 A. Yeah.

4 Q. Where were you taken?

5 A. Out to the couch around the other side of the bar.

6 Q. And were you -- how were you taken there?

7 A. I, I think someone just grabbed me by the zip-ties and
8 somehow we just ended up out there.

9 Q. And were you alone on the couch or --

10 A. No.

11 Q. -- was there anyone else there?

12 A. By then, let's see, who was there? The first thing I
13 remember seeing is Johnny Old School, and he looked like he was
14 dead.

15 Q. Okay. Was he on the couch?

16 A. No. He was on the floor and Grog was trying to clean his
17 face up. And --

18 Q. What was on his face?

19 A. Just solid blood.

20 Q. All right. And so when you got to the couch, did anybody
21 else get brought to the couch?

22 A. I believe Panhead. In the middle of all that, they dragged
23 my brother-in-law in there.

24 Q. Did you see Golf Club at any time?

25 A. He got brought there later.

1 Q. When you say "there," you're talking about the couch?

2 A. Yeah. Eventually.

3 Q. How about Two Dogs?

4 A. He was on the couch on the other end.

5 Q. Now, what type of couch is this? Is this a --

6 A. Like a pit groove kind of thing.

7 Q. Was it a sectional?

8 A. Yeah.

9 Q. All right. And so at some point, who, who is all on the
10 couch? Is it you?

11 A. Yeah. They eventually put Johnny there, but he was
12 unconscious.

13 Q. So you, Johnny Old School?

14 A. Two Dogs.

15 Q. Two Dogs?

16 A. Yeah. I would say all five of us eventually were on there.

17 Q. Golf Club and Panhead Mike being the other two?

18 A. Mh-hm.

19 Q. What happens when you're sitting on the couch?

20 A. We get -- I got poked in the ribs with a ball bat and hit
21 on the shins and the knees. And Mac put several cigarettes out
22 on me.

23 Q. Now, you said cigarettes were put out on you by Mac. Is
24 that Mac Tonight?

25 A. Yeah.

1 Q. Where was he putting cigarettes out on you?

2 A. Up here on my shoulders.

3 Q. And you said that you were poked in the ribs with a bat.

4 A. By Smoky, yes.

5 Q. Is that a baseball bat?

6 A. Yeah.

7 Q. When you say "poked," did it do any damage?

8 A. Yeah, it did damage.

9 Q. What kind of damage did you feel like it did?

10 A. Fractured ribs.

11 Q. And what about the ball bat to the knees and the legs, did
12 you have -- did that occur?

13 A. Yes.

14 Q. And who administered that?

15 A. Cuz.

16 Q. Cuz?

17 A. Mh-hm.

18 Q. Were those incidents limited to you or did any of the
19 other --

20 A. No. All of us got that.

21 Q. All right. And what happened next?

22 A. We got loaded in the back of a truck and taken out to the
23 desert.

24 Q. So how long would you say you had been in the, in the
25 clubhouse when -- if you can, perhaps it's difficult to assess,

1 but if you can, can you give us a sense on how much time passed
2 from the time that the church meeting started until you guys
3 were taken off the couch?

4 A. I don't think it was more than maybe 45 minutes or
5 something. It probably was less than that, but it seemed like
6 it, it was a long time.

7 Q. Did your brother-in-law get brought in at some point, you
8 said?

9 A. Yes.

10 Q. Tell the jury about that.

11 A. They had slapped him around, too, you know.

12 Q. And how was he brought in?

13 A. They just brought him in and sat him down on the floor
14 inside.

15 Q. And did it appear as if he had been injured?

16 A. Yes. He was injured.

17 Q. Was he a member of the Devils Diciples?

18 A. No. No.

19 Q. So --

20 A. He still lives with me. I've supported him as long as I've
21 been with my wife, you know. He's had, I think it's called
22 Bell's palsy. So he's not really able to go out and work or
23 anything.

24 MS. STOUT: Objection to relevance of this and the
25 narrative.

1 THE COURT: Overruled. Continue.

2 MS. MOHSIN: Yes, your Honor.

3 BY MS. MOHSIN:

4 Q. So your brother-in-law was not affiliated with the club; is
5 that a fair statement?

6 A. Yes.

7 Q. And he was a dependent of yours?

8 A. Yes.

9 Q. And when he was brought inside, did you say anything?

10 A. No.

11 Q. All right. Was he eventually let go?

12 A. (No response.)

13 Q. Or do you know?

14 A. Oh, yeah, he was. I mean, he still lives with me. But not
15 before we were gone. He was still inside there. At some
16 point, my wife came to the door not knowing what was going on.

17 Q. Did you see her?

18 A. No, I did not. I could hear her, because Mac was bothering
19 her, and Grog dealt with that.

20 Q. So when you guys are seated on the couch, is there still
21 other activity going on inside and, from what you can tell,
22 outside the clubhouse?

23 A. Yes.

24 Q. Did you see, other than the firearm that was discharged and
25 the gun that was put to your head, did you see other firearms

1 at that time?

2 A. Yes.

3 Q. Who did you see with a firearm?

4 A. Mac had a shotgun. I'm trying to -- I think pretty much
5 everybody had a gun.

6 Q. And did there come a time where someone was given an order
7 to put you in the vehicle?

8 A. Yes.

9 Q. Or withdrawn.

10 Was there a time where a vehicle was brought in?

11 A. Wizard was ordered to load us up and he refused. And it
12 later come to my attention that he was made to do it at
13 gunpoint.

14 Q. And when you say "a vehicle," what vehicle was this?

15 A. It was a one-ton truck that belonged to Panhead.

16 Q. Was it unique in any way? A unique color?

17 A. Bright yellow.

18 Q. Bright yellow?

19 A. Yes.

20 Q. So when you were -- did you hear Wizard getting ordered to
21 get the truck?

22 A. Yes.

23 Q. Or to put you in the truck?

24 Who gave that order?

25 A. I believe Little John.

1 Q. And -- Little John?

2 A. Yes.

3 Q. And so how did you get from the couch into the truck?

4 A. Was just picked up and dragged out there.

5 Q. Now, was duct tape used on you or any of the other members?

6 A. Yes.

7 Q. What was the duct tape used for?

8 A. Like around the mouth.

9 Q. All right. To prevent you from speaking?

10 A. Yeah.

11 Q. All right. Was there duct tape used on anyone's hands?

12 A. We were zip-tied.

13 Q. Zip-tied?

14 A. They used zip-ties.

15 Q. And were you the only one who had been zip-tied or had
16 others been zip-tied as well?

17 A. No, everybody was by the time that we got in the back of
18 the truck. Golf Club and, and Johnny were unconscious.

19 Q. Were, were your shoes -- did you have your shoes?

20 A. No.

21 Q. What happened to your shoes?

22 A. They took the shoes.

23 Q. All right. And did they remove all of your shoes?

24 A. Yes.

25 Q. How about other belongings? Did you have any other things

1 taken from you at that time?

2 A. My shirt.

3 Q. And did any of the other members have things taken from
4 them at that time?

5 A. I don't know.

6 Q. All right. And so when you --

7 A. Shoes.

8 Q. I'm sorry?

9 A. Their shoes.

10 Q. Their shoes?

11 A. For sure, yeah.

12 Q. And you indicated that Golf Club and Johnny were both
13 unconscious.

14 A. Yes.

15 Q. Were they -- how did they make it into the truck?

16 A. They were brought there.

17 Q. Were they lifted up?

18 A. Mh-hm.

19 Q. And were they lifted up and put into a seat or some other
20 place?

21 A. In the back of the truck.

22 Q. Okay. The bed?

23 A. The metal floor, you know. It had a camper top on it.

24 Q. And so were you also loaded into it or did you get in on
25 your own?

1 A. I was not able to walk at that time. So I got dragged out
2 there and just tossed in, you know.

3 Q. How many of you were in the bed of that truck?

4 A. Five.

5 Q. And did you have any understanding about who was going to
6 drive this truck?

7 A. Huevos and Cuz were the -- in the cab of the truck.

8 Q. And they were both southern Arizona members?

9 A. Mh-hm.

10 Q. Is it daylight out when this happens?

11 A. Still, yes.

12 Q. And do you remember when you were in the bed of that truck,
13 where that truck went? Did you know?

14 A. No.

15 Q. Did you make any stops?

16 A. Yes. Once for gas.

17 Q. So at one point, the truck stopped at a gas station?

18 A. Yes.

19 Q. Could you see who was pumping the gas?

20 A. I believe Cuz was.

21 Q. Were you conscious the entire time?

22 A. Yes.

23 Q. Now, did there come a time where the truck stopped again?

24 A. Yeah.

25 Q. Where would that have been?

1 A. I didn't know where it was at the time. It's way out in
2 the desert.

3 What happened is they stopped and took one of us out
4 at a time, you know, and more beatings and then pull up the
5 road a little ways and the next one.

6 And when it came my turn, I had gotten my hands loose
7 in there, but it didn't --

8 MS. STOUT: Can he identify "they," your Honor?

9 THE WITNESS: -- it did not do me any good.

10 MS. STOUT: Could he identify "they"?

11 THE WITNESS: Huevos and Cuz.

12 THE COURT: That's fine. But it would be as --

13 MS. MOHSIN: I intend to follow it up.

14 THE COURT: It would be appropriate or convenient
15 to --

16 MS. MOHSIN: Yes.

17 THE COURT: -- provide additional detail, as Ms. Stout
18 suggests. Go ahead.

19 MS. MOHSIN: I have been doing that, your Honor, and I
20 will continue to do that.

21 THE COURT: Yes, you have. And I don't fault you.

22 MS. MOHSIN: Okay. Thank you, your Honor.

23 BY MS. MOHSIN:

24 Q. So you had indicated that you were in the back of the
25 truck, and it drove to a place that, that you didn't know where

1 you were going; is that an accurate statement?

2 A. Yes.

3 Q. And could you tell who was driving the truck?

4 A. Huevos was driving, and Cuz was the one that was coming out
5 and removing people one at a time.

6 Q. Other than Huevos and Cuz, and obviously the five of you in
7 the bed of the truck, was anyone else in that car?

8 A. No.

9 Q. All right. So when you were driving, do you have any sense
10 of how long you were driving after the gas -- you know, not
11 including the gas station stuff? Did you have any sense of it?

12 A. I'm really not clear on that, you know, at all, the
13 time-wise.

14 Q. Could you tell if the others in the, in the bed of the
15 truck were conscious at this point?

16 A. Golf Club and Johnny were not.

17 Q. And you said that you drove. At some point, the car
18 stopped?

19 A. Yes.

20 Q. While you were driving, do you know if Cuz or Huevos, were
21 they saying anything, were they doing anything that you could
22 understand?

23 A. I couldn't hear them, no.

24 Q. Did either one of them, to your knowledge, have any
25 firearms?

1 A. Both of them.

2 Q. And did you see those firearms at any point? Did they
3 point them at you?

4 A. No.

5 Q. All right. So after you stopped at this desert area, had
6 you been there before?

7 A. No.

8 Q. Did you recognize it in any way?

9 A. No.

10 Q. And you indicated that you guys were beaten some more.

11 A. Yeah.

12 Q. Which of the two individuals that were driving or being --
13 or in the cab of the truck were doing the beating?

14 A. That would be Cuz.

15 Q. Did Huevos participate in that?

16 A. I don't believe he got out of the truck.

17 Q. So you believe he stayed in the driver's seat?

18 A. Yeah.

19 Q. And you indicated that at different intervals, the vehicle
20 stopped.

21 A. Yeah.

22 Q. What was the first time or when -- the first time that it
23 stopped, were you taken out of the vehicle or was someone else
24 taken out?

25 A. I believe Johnny was the first one.

1 Q. When you say "Johnny," you're referring to Johnny Old
2 School?

3 A. Yes.

4 Q. And when he was taken out, did you see Cuz beat him in any
5 way?

6 A. They just -- actually, Huevos did help on that. They
7 pushed him off of the road, because he could not -- I mean,
8 they just, plop, there he is on the ground. He was still
9 unconscious.

10 Q. So would it be fair to say they threw him off?

11 A. Yes.

12 Q. And when they threw him off, at this point, do you know if
13 it's daylight or dark?

14 A. It's still daylight, yes.

15 Q. And do you have any sense of how close it is to sundown?

16 A. No, not really. I wasn't even thinking about that.

17 Q. Now, you said that the car, that after they dropped Johnny
18 Old School and threw him down, could you see where they threw
19 him? In other words, was this some sort of a hilly area?

20 A. It's a dirt road in the mountains somewhere, you know, in
21 the desert.

22 Q. Okay. Was there any sort of a steep --

23 A. There was a guardrail, yeah. It was real steep.

24 Q. There was, there was a guardrail or there was not?

25 A. There is a guardrail, I think.

1 Q. All right.

2 A. Yeah.

3 Q. And could you see where Johnny Old School landed?

4 A. No.

5 Q. Why not?

6 A. Well, you just couldn't see that from the truck.

7 Q. And I guess my question to you is, was Johnny Old School
8 thrown down into a ravine of some kind or could you tell where
9 he was thrown?

10 A. I would say -- I don't know that for sure, but I would --
11 based on what happened to me, I think that's reasonable.

12 Q. All right. So after he is thrown out, does the vehicle
13 move or are other people taken out?

14 A. No. They drive up the road a ways, and then out come Golf
15 Club.

16 Q. Now, is Cuz the only one that gets out this time?

17 A. Yeah.

18 Q. And is Cuz using a baseball bat or any other object?

19 A. Yeah.

20 Q. And does he beat Golf Club some more?

21 A. Some, but Golf Club got up and started going back down the
22 road again a ways.

23 Q. All right. Did Golf Club get thrown down the ravine?

24 A. No.

25 Q. All right. And when he went down the road, did anybody

1 stop him?

2 A. No.

3 Q. All right. Did you see him?

4 A. Yes.

5 Q. What was he doing?

6 A. Staggering down the road.

7 Q. Okay. And was he in -- was he -- were you able to talk to
8 him at all in any way?

9 A. No. Then it's driving more, you know.

10 Q. All right.

11 A. Immediately. So I didn't see him for long.

12 Q. All right. And when the car drove again, did it go any
13 sort of a distance?

14 A. Yeah. Each time was probably maybe several hundred yards.

15 Q. Okay.

16 A. Then I came out. My hands were loose. I thought I could
17 grab a rock or something from the road, you know, and do
18 something, but no way. They are all smashed into the road.
19 You couldn't get them out. So I got hit a few times with a
20 bat, and I willingly went over the side to get away from that,
21 you know. And that was a big mistake.

22 Q. Why was that a big mistake?

23 A. Because it was like almost vertical.

24 Q. A vertical drop?

25 A. I didn't even look. You know, I just bailed over that.

1 And I went down there probably eight, 900 feet --

2 Q. Okay.

3 A. -- in one bounce, then a longer bounce and a longer bounce,
4 and then finally boom, on the flat rock. And if I would have
5 gone one more, I wouldn't be here talking today.

6 Q. Was there a reason why? Was there a cliff at that point?

7 A. How I ended up where I did, I don't know. There was a
8 great big rock, and then a very small flat rock behind it.

9 Q. Like a ledge?

10 A. And then straight down. And I hit hard on that flat spot
11 from 20, 30 feet above, probably. It never hit the big rock,
12 you know, or I would have been over the edge. I remember
13 thinking, well, they would have a hard time shooting me now,
14 you know, because of where I was, I could barely see the road.

15 Q. Now, you mentioned shooting you. Did you have a concern
16 about that?

17 A. Yeah, I thought so.

18 Q. Why did you have a concern about that?

19 A. Because Johnny and Golf Club looked about dead. And I was
20 worse than I thought I was. I didn't think I was in as bad a
21 shape as I was.

22 Q. Did you see any other vehicles on the road?

23 A. Yeah. But right away, what happened next, I saw the truck
24 continue on and stop, and that was when they off-loaded Two
25 Dogs. And then once more, at the top of the hill I saw just

1 the brake lights. And then came a Jeep that Grog was driving.

2 Q. And there was a Jeep that Grog was driving?

3 A. Yeah.

4 Q. Did you see Grog?

5 A. Yes.

6 Q. This is the nomad?

7 A. Yeah.

8 Q. And what did he do? What did you see him do, if anything?

9 A. He just slowly drove behind.

10 Q. All right. And so did there come a time where the two
11 vehicles left?

12 A. Yeah.

13 Q. Did they shoot at you?

14 A. No.

15 Q. So after they left, what did you do?

16 A. I climbed back up to the road and started heading the way
17 that they had headed, thinking I would get Panhead and, and Two
18 Dogs.

19 Q. And so when you say "headed the way they had headed"?

20 A. Which was still up. At this point, I don't know where the
21 road went, you know, to be honest with you, you know. I've
22 never gone back there either.

23 Q. So when you first -- the first stop you said was Johnny Old
24 School, when he was taken out --

25 A. Right.

1 Q. -- of the vehicle and thrown down the ravine.

2 Was that at the -- a lower elevation than where you
3 were?

4 A. Yes.

5 Q. In other words, is this road traveling in an upward
6 elevation?

7 A. Yes.

8 Q. And so when you finally climbed out of this location, did
9 you continue to travel up?

10 A. I met Two Dogs about halfway down, and I asked him what he
11 saw. And he said that Panhead had just gotten out of the back
12 of the truck and got into the front and left. So we turned
13 around to go find the rest of the people.

14 Q. So you did travel up to look for Two Dogs; is that a fair
15 statement?

16 A. Yes. Yes.

17 Q. And you believed that Panhead was up there as well?

18 A. Yes.

19 Q. And so part of the way up, you ran into Two Dogs?

20 A. He was headed, yeah, back.

21 Q. In other words, down?

22 A. Yes.

23 Q. Back down the road towards the, the way you had come?

24 A. Right.

25 Q. Is it nighttime yet or is it still daytime?

1 A. It's, I would say, getting, getting toward dark.

2 Q. And when you see Two Dogs, and he tells you that Panhead is
3 not there --

4 A. Right.

5 Q. -- what did you do next?

6 A. We went to find Golf Club and Johnny.

7 Q. And how, how were you able to, or what was your physical
8 condition, I should ask?

9 A. Not good.

10 Q. All right.

11 A. We just walked down the road, and we found Golf Club. And
12 we could not find Johnny. I mean, we looked everywhere,
13 tried -- I couldn't even yell because it made my head, like,
14 hurt way too much, like, almost made me nauseous, you know, to
15 do that. But Two Dogs was yelling and we couldn't hear
16 anything, couldn't know exactly where it was. You know, and
17 it's so rough, the terrain out there, that you can't, you can't
18 see anything, you know, and it was getting dark.

19 And we just kept walking. We could see the lights way
20 far away, maybe 10 miles, of a small town. And then some
21 lesser lights, maybe a rancher or something. So we kept
22 walking.

23 Q. Was Two Dogs and Golf Club with you the entire time or did
24 there come a time where you guys had split up?

25 A. Somehow Golf Club got away, separated from us. I don't

1 even know. It was like all I could do to walk. I didn't go
2 too much farther.

3 Q. Were you able to see or did you have any difficulty?

4 A. I couldn't see right, no. I couldn't see my feet.

5 Q. Okay.

6 A. You know. It probably maybe -- I really don't know how far
7 I walked out there, but it --

8 Q. How long did you walk?

9 A. Until late, until after dark.

10 Q. All right.

11 A. I know that. It was dark. And I just laid down, I told
12 Two Dogs, you got to find a rancher. I can't go anymore, you
13 know, and I was out.

14 Q. So did you pass out at that point?

15 A. Yeah. Yeah.

16 Q. And did Two Dogs leave you there?

17 A. Yes.

18 Q. And was Golf Club with you at this point?

19 A. No.

20 Q. How long had you guys been with Golf Club at this point?
21 Was it hours or minutes or --

22 A. An hour, probably. And then we -- all of a sudden he just
23 wasn't, wasn't there anymore.

24 Q. Now, when he was with you, was he -- you know, he was
25 conscious, he was walking.

1 A. Yeah. He was walking better than we were. But I mean, I
2 think that had to just be adrenalin, because he was in worse
3 shape. I think I was probably, of the four of us, I was in the
4 middle as far as damage. Both Johnny and Golf Club were in far
5 worse shape than me.

6 Q. So after you passed out, what's the next thing that you
7 were aware of?

8 A. He re -- Two Dogs returned with a rancher and a glass of
9 juice.

10 Q. And do you know about how long of a time passed?

11 A. I don't. It was later, I know that.

12 Q. And the rancher, did he help you?

13 A. Yes.

14 Q. And did there come a time then where some other help
15 arrived?

16 A. Yeah, an ambulance and the sheriffs.

17 Q. And did you go to the hospital?

18 A. Yes, I did.

19 Q. Did you see -- did you see Johnny Old School that night?

20 A. No. But I convinced them before we got to the hospital
21 that they -- you know, that he needed -- they needed to find
22 him.

23 Q. The sheriffs, are you talking about?

24 A. Yeah.

25 Q. And did you tell them about Panhead?

1 A. No.

2 Q. All right. Now, when you got to the hospital, did you see
3 any of the other individuals that you had been with earlier?

4 A. No. But I had heard in the ambulance, I guess, that Golf
5 Club had, had beaten us all out of there. He walked to some
6 other ranch and got an ambulance. But they said no, had no
7 knowledge of Johnny, you know. And I'm, like, "He's out there,
8 you got to find him."

9 Q. Did there come a time where you learned that Johnny had
10 been found?

11 A. Yes.

12 Q. All right. And were you at the hospital when that happened
13 or at some other time?

14 A. That was almost before I left the hospital.

15 Q. Okay. Did you talk to any law enforcement personnel at the
16 hospital?

17 A. Yes.

18 Q. And did they ask you questions about what had happened?

19 A. Yeah. And I wanted to, to get to my wife as soon as
20 possible, so I was not truthful with them at all, you know. I
21 told them we went down there to buy motorcycle parts and fell
22 out of a truck.

23 And you look at it afterwards, I've got duct tape
24 wrapped around, and my head all split open, it probably wasn't
25 a very convincing lie.

1 Q. So you --

2 A. And they, they figured that out, the detective. She says,
3 don't you have a wife? And I'm, like, yes, I do, you know, and
4 I got to get down there.

5 Q. Were you concerned about her?

6 A. Yes, I was.

7 Q. Why?

8 A. Because of, you know, she was there when it happened.

9 Q. So after you were in the hospital -- how long did you stay
10 in the hospital?

11 A. Long enough for, like, an MRI or something of that nature.
12 And I think they took x-rays of my knees and ribs and back.
13 They never did fix my feet, and they were shredded.

14 And so when the police left, I just got up and
15 wandered around. And I found -- it's a strange place it seems
16 like to me, in the hospital, more like a warehouse area. And I
17 just went into the bigger room and there was Johnny and Golf
18 Club. And they were both unconscious. I thought they were
19 dead at first.

20 Q. What did you do?

21 A. What did I do? I walked outside. They didn't want to let
22 me out. They said, "You can't leave." And I just -- they
23 opened the door eventually. And I went and made some phone
24 calls to get a ride. And we did get Johnny out. Golf Club
25 was -- he had to stay there.

1 Q. And where did you go from there?

2 A. To a hotel.

3 Q. All right. And did you find out if your wife -- about your
4 wife?

5 A. After I got my -- the stuff out of my feet, I called Doc,
6 which was a risk, you know. But I mean, I was the closest to
7 him. He was all apologizing. He said Angel was all right.

8 Q. Is that your wife's nickname?

9 A. Yeah.

10 Q. Angel?

11 A. Mh-hm.

12 Q. All right. And so after this happened, what did you do
13 after that?

14 A. Well, we only had a day to stay in that hotel. And we did
15 get Golf Club out, his son did. He was having seizures. And
16 we all were at Johnny's house. And all I could do was sleep.
17 That's all I could do, for a long time.

18 Q. How long did it take you to recover from the injuries?

19 A. More than two years. I thought I was better. I mean, we
20 didn't work for six or eight months. Golf Club was a mechanic,
21 also. And we went to tune my wife's car up and we couldn't
22 even do -- we couldn't even finish it. You know, just like,
23 boy, we're not better.

24 Q. Did there come a time that you were arrested?

25 A. Yeah.

1 Q. And were you arrested by the Pima County Sheriff's
2 Department?

3 A. Yes, I was.

4 Q. And were you charged in connection with the events that
5 occurred at the clubhouse in that first week of April of 2003?

6 A. Yes, I was.

7 Q. And were you charged with other crimes as well?

8 A. Yes, I also was.

9 Q. And did you plead guilty?

10 A. I pled guilty to kidnapping, acts of intimidation, and
11 contributing to a criminal street gang.

12 Q. Now, the acts of intimidation, did that relate to what had
13 occurred with Heather Ford or was it in relation to something
14 else?

15 A. I don't know at all.

16 Q. And the kidnapping, was that in relation --

17 A. Yes.

18 Q. -- to Heather Ford?

19 A. That was.

20 Q. And the acts of intimidation -- I'm sorry. The street
21 gang, was that in relation to Heather Ford?

22 A. No, I don't think so.

23 Q. So at some point, you said you pled guilty to those
24 charges?

25 A. Yes.

1 Q. And did you serve any time?

2 A. Yeah. Two years, and five years of probation.

3 Q. All right. Two years' incarceration?

4 A. Mh-hm.

5 Q. And five years of probation?

6 A. Yes.

7 Q. And to your knowledge, did any of the individuals that were
8 involved in that beating ever get arrested for --

9 A. No.

10 Q. -- that crime?

11 A. Never.

12 Q. Now, after you left the hospital and you went to the hotel
13 room, you had indicated that you had been living at the
14 clubhouse.

15 A. Mh-hm.

16 Q. You had a trailer there?

17 A. I had a trailer and a bus with all of like a machine shop
18 and all my tools in it. Yeah. Everything I owned was down
19 there.

20 Q. Everything you owned, because you had been living there?

21 A. Mh-hm.

22 Q. Clothing? Personal possessions? Tools? Yes?

23 A. Yes.

24 Q. How about other items, such as firearms?

25 A. Yes.

1 Q. A motorcycle?

2 A. A motorcycle. I had about 12 vehicles, but some of them
3 weren't worth very much.

4 Q. More of a junk sort of a thing?

5 A. Yeah.

6 Q. And did you own a motorcycle?

7 A. Yes.

8 Q. And so were these things taken, once you were kicked out of
9 the club and taken to the Box Canyon?

10 A. Yes, they were.

11 Q. They were taken? Did you ever get any of those items back?

12 A. I got one car and a one-ton truck that I had, but I lost
13 them when I was in jail.

14 Q. All right. And what happened to your motorcycle?

15 A. Wizard got it.

16 Q. Did you make any attempts to contact any of the Devils
17 Diciples leadership?

18 A. Yes.

19 Q. What were those attempts?

20 A. Phone calls.

21 Q. And what was the purpose of making phone calls?

22 A. I wanted to know why, you know, why did that happen.

23 Q. Who did you call?

24 A. Fat Dog. Twice.

25 Q. And did you talk to him?

1 A. No.

2 Q. Did you leave messages for him?

3 A. Yes.

4 Q. Did he return the messages?

5 A. No.

6 Q. Did you talk to anyone else?

7 A. Yeah. I talked to Fast Eddie, and he said he was going to
8 go and, and get someone to call me, but Fat Dog was out of
9 town. And Pauli didn't want to talk to me.

10 Q. Okay. Did you ever talk to anyone in the leadership in the
11 Devils Diciples about this event?

12 A. No, I did not.

13 Q. After you were incarcerated and then you were on probation
14 and you left the jail, did you ever become involved with the
15 Devils Diciples again?

16 A. No. Or any other motorcycle club.

17 Q. Or any other motorcycle club? No?

18 A. No.

19 Q. And was there any change in your lifestyle in any way?

20 A. Yeah. I'm not involved with motorcycles at all.

21 Q. All right. Now, I want to show you some photographs.

22 THE COURT: We have just five minutes until the normal
23 lunch break. Do you want to wrap -- do you have a five-minute
24 segment here or --

25 MS. MOHSIN: I think we should break. I don't have a

1 lot more, but it's more than five minutes.

2 THE COURT: All right. Let's, let's do that then.

3 And you may recess, ladies and gentlemen, to the jury
4 room where your lunch will be provided as per usual. We'll see
5 you at 1:30 p.m. Thank you. We're in recess.

6 (Jury out, 12:26 p.m.)

7 COURT REPORTER: Court is in recess.

8 (Recess taken, 12:27 p.m. - 1:37 p.m.)

9 THE CLERK: All rise. United States District Court
10 for the Eastern District of Michigan is now in session, the
11 Honorable Robert H. Cleland presiding.

12 All those having business before the Court draw near,
13 give attention and you shall be heard. God save these United
14 States and this Honorable Court.

15 (Jury in, 1:38 p.m.)

16 THE COURT: Everyone is back. The witness may be
17 seated.

18 The attorneys are all present. Jurors are all
19 present. All right. And the witness has returned.

20 And we have replaced the microphone so it's possible
21 for you to move it, sir, left or right or draw it somewhat
22 closer to you, I hope. And that's for subsequent witnesses,
23 as well.

24 All right, Ms. Mohsin. Do you want to continue with
25 questioning?

1 Somebody -- before you do, this is the second time
2 that I have heard a cell phone from that general area. Is it
3 a deputy, is it an attorney?

4 MR. PITTS: We're trying to figure it out, to be
5 honest with you. It isn't us, Judge.

6 THE COURT: Those of you that have -- the attorneys'
7 machines should be off, not vibrating, and if any of the court
8 officials or deputies or whatever have, be guided accordingly,
9 please.

10 All right. Go ahead, Ms. Mohsin.

11 MS. MOHSIN: Thank you, your Honor.

12 BY MS. MOHSIN:

13 Q. Good afternoon, Mr. Higgins.

14 A. Good afternoon.

15 Q. Mr. Higgins, I'm going to show you on the screen here, and
16 quite possibly on the screen next to you, Government's Exhibit
17 11-4. See if you recognize it.

18 A. Yeah.

19 Q. Have you seen that before?

20 A. Not from that viewpoint.

21 Q. All right. What do you recognize it to be, sir?

22 A. Box Canyon.

23 Q. Directing your attention to 11-5, do you recognize that
24 photo?

25 A. Not the exact spot, but yes.

1 Q. Now, when you say yes, what do you recognize that -- not
2 the exact spot, but what do you recognize?

3 A. That's the road through Box Canyon.

4 Q. And is that similar to what the area looked like that night
5 between April 27 and 28 of 2003?

6 A. Yes.

7 Q. All right. I want to direct your attention now to some
8 proposed exhibits.

9 One moment, please.

10 MS. MOHSIN: Your Honor, at this time the Government
11 would, with no objection from the defense, move for the
12 admission of Proposed Exhibits 11-28, 11-29, and 11-32.

13 THE COURT: 28, 29, and 30 -- I'm sorry, 28, 29, and
14 32?

15 MS. MOHSIN: Correct.

16 MR. SABBOTA: No objection.

17 THE COURT: Without objection, each of these is
18 received.

19 MS. MOHSIN: Thank you.

20 (Exhibits 28, 29, 32 received, 1:41 p.m.)

21 BY MS. MOHSIN:

22 Q. Mr. Higgins, you described that when you were being
23 transported to the Box Canyon it was inside of a yellow truck?

24 A. Yes.

25 Q. I'm going to direct your attention to Government's

1 Exhibit 11-28 and ask you to take a look at that image. Do you
2 recognize that?

3 A. Yes, I do.

4 Q. What do you recognize that to be?

5 A. Panhead Mike's truck.

6 Q. And is the bed of that truck covered?

7 A. Yes.

8 Q. Is that some sort of a glass cover on top of the bed or is
9 it something that you can't see out of?

10 A. You can't see out of it, no.

11 Q. All right. Directing your attention to 11-29, sir, what's
12 depicted in that photo? Do you recognize it?

13 A. The back of it.

14 Q. And could you see out of the window there at the top of the
15 back of the truck?

16 A. Probably, yes. I wasn't looking that way. I was looking
17 at the floor.

18 Q. Were you face-down or face-up in the truck?

19 A. Face-down.

20 Q. And were you face-down the entire time you were back there?

21 A. Until I got my hands loose.

22 Q. And were you working on getting your hands loose while you
23 were in the bed of that truck?

24 A. Yes.

25 Q. And once you got your hands loose, by the way, was the

1 truck still moving when you got your hands loose?

2 A. Yes.

3 Q. Were you able to see out of the back of that truck?

4 A. Not really.

5 Q. And the door to that truck, did that open or did it open
6 when you were in it?

7 A. I don't think so.

8 Q. Directing your attention to 11-32, do you recognize that?

9 A. No.

10 Q. No?

11 A. I don't think so.

12 Q. All right. I want to direct your attention to some
13 additional photos now.

14 THE COURT: Expecting these to be introduced?

15 MS. MOHSIN: Yes, your Honor. There are a series of
16 photos.

17 Your Honor, I believe that there are no objections.
18 These are from the 11 series. I will just ask to admit them as
19 I move through them, if that's okay with the Court, because
20 they are voluminous, or do you want me to do it in a chunk?

21 THE COURT: If there's to be no objection, and am I
22 correct that there's no objection anticipated?

23 MR. SABBOTA: No objection.

24 THE COURT: What I would suggest, if they are that
25 voluminous, is that you publish them as you're asking the

1 witness about them, identify them each, and at the end of this
2 series move introduction of those that have been discussed and
3 already published.

4 MS. MOHSIN: Yes, your Honor.

5 BY MS. MOHSIN:

6 Q. I want to direct your attention now to proposed Exhibit
7 11-84 -- I'm sorry -- 11-81. Do you recognize that?

8 A. Yes.

9 Q. What is that?

10 A. It's a sign that was over the bar.

11 Q. And when you say over the bar, inside of the clubhouse?

12 A. I believe so.

13 Q. All right. Directing your attention to 11-82, do you
14 recognize that?

15 A. Yeah. That's the front of the clubhouse.

16 Q. So this is the Southern Arizona Tucson Chapter Devils
17 Diciples Clubhouse?

18 A. Yes.

19 Q. And is that in the L-shape that you previously described?

20 A. Yes.

21 Q. There are two trucks parked in this particular image; is
22 that right?

23 A. Yeah.

24 Q. Where is the front door that leads into the clubhouse?

25 A. Right behind those two trucks.

1 Q. Okay.

2 A. Where the awning is.

3 Q. There's a laser pointer there, sir, in front of you. You
4 can -- not there, on the big screen.

5 A. Right there. (Indicating).

6 Q. That's where the front door is?

7 A. Yes.

8 Q. And you had indicated that there were apartment-style rooms
9 or apartments. Where were those located?

10 A. Right there, right there and right there. (Indicating).

11 Q. Okay. Where was the common area located, was it beyond
12 that front door?

13 A. Yes.

14 Q. Okay. Directing your attention to 11-83, do you recognize
15 that, sir?

16 A. Yeah.

17 Q. And can you tell the jury what's shown in that particular
18 picture?

19 A. That's just the front of the previous picture, if you
20 were to turn and look to the right. So it shows the three
21 apartments, and what you can't see would be the main part of
22 it, the main entrance.

23 Q. And there's a bus parked behind there. Was that one of
24 your buses?

25 A. No.

1 Q. All right. Directing your attention to 11-84, can you
2 describe what view is depicted? Is the front of the clubhouse
3 or the front door to the clubhouse depicted in this photo?

4 A. Yes.

5 Q. And can you identify where?

6 A. Right there.

7 Q. All right. Directing your attention to 11-85, tell the
8 jury what's depicted in that.

9 A. It's the same three apartments.

10 Q. So this is all attached to the main clubhouse?

11 A. Yeah.

12 Q. 11-86?

13 A. Same thing.

14 Q. Same thing, the apartments that you have been talking about
15 earlier?

16 A. Yeah.

17 Q. Where is your trailer in relation to these apartments?

18 A. Diagonally, back there.

19 Q. Behind the clubhouse from where the point of view is in
20 this picture?

21 A. Yeah.

22 Q. And where is the generator that you talked about?

23 A. In between.

24 Q. Is it outside?

25 A. Some -- well, we had more than one, you know. They didn't

1 last that long. The last one that we had was on the back
2 porch, so it was covered. The one before that was right in
3 front of my bus.

4 Q. I'm talking about at the time of the Heather Ford assault.

5 A. That was on the back porch, which, if you were to go
6 through the front building off of the back, there is a porch.

7 Q. So not --

8 A. That's the common area.

9 Q. Okay. Past the common area.

10 11-87, is that also part of the clubhouse property,
11 that area?

12 A. Yeah.

13 Q. And is the clubhouse to the front of that picture, behind
14 the bus?

15 A. That's actually the back. What you see behind the bus is
16 the back of those three apartments.

17 Q. Okay.

18 A. And the back of the common area and where that fence is, is
19 pretty much almost the property line.

20 Q. Okay. Directing your attention to 11-88, what is that a
21 picture of?

22 A. That's just another building that was out there.

23 Q. Are those on the property, those buildings?

24 A. Yes.

25 Q. So that's part of the Devils Diciples clubhouse property

1 that existed at that time?

2 A. Yes.

3 Q. Everything that's depicted in that picture?

4 Is that yes, sir?

5 A. Yeah. I don't recognize any of these extra motor homes or
6 things like that, but --

7 Q. Was it common to have different motor homes or other things
8 back there at the time?

9 A. Not really.

10 Q. All right. Directing your attention to 11-89, do you
11 recognize that?

12 A. Yeah.

13 Q. What's that a picture of, sir?

14 A. Compared to the front one, that's the side of the common
15 area. And the three over here, the apartments in the front
16 would be right behind that tree.

17 Q. All right. So the left side of the screen is the back of
18 the common area?

19 A. The side of it, like the north side.

20 Q. The side of it?

21 A. Yeah.

22 Q. Okay. 11-90, what is that a view of?

23 A. All right. Now, I don't know what the front one is, but
24 that's my trailer right there. The bus is right there. You
25 can just see a little bit of it. That's the water tank.

1 Q. And is there a chain-link fence along the side?

2 A. I don't think so.

3 Q. On the left side of that, can you see it?

4 A. Oh, that's a separate property. That's a business.

5 Q. On the other side of that fence?

6 A. Yeah.

7 Q. Okay. But the property, the Devils Diciples clubhouse at
8 that time went up to that?

9 A. This side of the fence, yeah.

10 Q. It went up to the chain-link fence?

11 A. Yes.

12 Q. Directing your attention to 11-91, do you recognize that?

13 A. Yeah. I don't recognize all the vehicles or the extra
14 motor homes, but --

15 Q. What do you recognize, if anything?

16 A. That's the back of the clubhouse up there where the trees
17 are right up here.

18 Q. Okay. And were people living in any of those trailers, to
19 your knowledge?

20 A. I don't even recognize them.

21 Q. Directing your attention to 11-92, do you recognize that?

22 A. That's my trailer.

23 Q. Which one?

24 A. This one.

25 Q. Okay. And is that where you lived with your wife and your

1 brother-in-law?

2 A. Yes.

3 Q. Directing your attention to 11-93, is that also part of the
4 property, the clubhouse property at the time?

5 A. Yeah. Yeah.

6 Q. Okay. Directing your attention to 11-94, is this picture
7 also part of the clubhouse property at the time?

8 A. Yeah.

9 Q. Directing your attention to 11-95, can you describe whether
10 the clubhouse is depicted in this particular image?

11 A. Yeah. That's it right there. There's the bus where I had
12 all my tools and that's my trailer.

13 Q. And again, all property of the Devils Diciples at the time?

14 A. Yes.

15 Q. Directing your attention to 11-96, can you tell what's
16 depicted in this picture?

17 A. I don't recognize all them. All the trailers, they weren't
18 there when I was there.

19 Q. Were these on the property of the Devils Diciples?

20 A. Yeah, they are.

21 Q. Okay. Directing your attention to 11-97, do you recognize
22 that trailer?

23 A. No.

24 Q. Okay. Directing your attention to 11-98, do you recognize
25 any of those?

1 A. Not any of them, no.

2 Q. Okay. Were these also on the property of the Devils
3 Diciples?

4 A. Yeah.

5 Q. 11-99, do you recognize that?

6 A. Yeah. That's the back of the property, but I don't
7 recognize the trailers.

8 Q. Okay. I want to direct your attention now to photographs,
9 specifically, 11-101. Do you recognize that particular --

10 A. That's out front.

11 Q. The front door?

12 A. Yeah.

13 Q. Is that depicted --

14 A. Straight behind the sidewalk, that goes right up to it.

15 Q. Now, directing your attention to 11-102.

16 A. Yeah.

17 Q. What is depicted in that photo, sir?

18 A. Front door.

19 Q. Again, of the Devils Diciples clubhouse?

20 A. Yes.

21 Q. Directing your attention to 11-103, what's depicted in that
22 photo, do you know?

23 A. That's the front room.

24 Q. Is this the common room that you had been talking about
25 earlier?

1 A. Yeah.

2 Q. And is this what you come into if you enter the front door
3 of the clubhouse?

4 A. Yeah.

5 Q. Is this where you had church meetings?

6 A. Yes.

7 Q. Is this where the beatings occurred?

8 A. Yes.

9 Q. Directing your attention to 11-104, can you describe what's
10 depicted in that photo?

11 A. There's Johnnie's tool boxes.

12 Q. Can you use that laser pointer, please, and point them out?

13 A. Right there. (Indicating).

14 Q. Those were tool boxes that belonged to?

15 A. Johnnie Old School.

16 Q. Johnnie Old School. Did you know what kind of work Johnnie
17 Old School did?

18 A. Yeah. He was a motorcycle mechanic.

19 Q. And inside of those tool boxes, what type of tools were in
20 there?

21 A. Snap-On, Matco, KD.

22 Q. Tools used to repair motorcycles?

23 A. Yeah.

24 Q. All right. Is the sign, Devils Diciples Southern Arizona
25 Clubhouse, is that the sign we had seen in a previous

1 photograph?

2 A. Must be, yeah.

3 Q. Directing your attention to 11-105, is this all the same
4 room that you had described in the last two photos?

5 A. Yes.

6 Q. And is there a fireplace in this room?

7 A. Yeah, right, right there, but there's a piece of the bar
8 missing.

9 Q. And is this the room that the beatings occurred in?

10 A. Yeah.

11 Q. Where were you standing when you saw these members come
12 inside and you approached Holiday?

13 A. Behind -- well, Holiday was right here and I was behind the
14 bar.

15 Q. Okay. And so from this point of view, being behind the bar
16 would mean to be on the opposite end of what's depicted as the
17 bar here?

18 A. Yes.

19 Q. Directing your attention to 11-106, can you describe what's
20 depicted in this photo?

21 A. The fireplace and what you see from behind the bar looking
22 out.

23 Q. Now, this bar, was it along one wall or more than one wall?

24 A. No, it was -- it almost closed up -- well, you can't see it
25 on the previous picture.

1 Q. You could see it in the previous picture or you cannot?

2 A. I can show you on the previous picture.

3 MS. MOHSIN: 11-105, please.

4 THE WITNESS: Yeah. Right here there used to be --
5 the bar would continue right up to the wall and there was an
6 opening with a hinge on it.

7

8 BY MS. MOHSIN:

9 Q. Okay. And was it fairly long, the distance between the
10 edge of the bar and that wall that has the 44 sign above it?

11 A. Eight, nine feet.

12 Q. So it extended from what's depicted as the bar all the way
13 out towards that sign that says 44, by eight or nine feet?

14 A. Yeah.

15 Q. And you were standing on the other side of that bar when
16 you saw these individuals first come into the clubhouse?

17 A. Right.

18 Q. All right. Directing your attention to 11-107, can you
19 describe what's depicted in this photo?

20 A. Yeah. That's my old motorcycle, and the bathroom.

21 Q. All right. And is that also part of the common area or
22 it's --

23 A. Pretty much, like the tool boxes that -- Johnnie's would
24 be right about here. That might even be them in the shadow.

25 Q. Okay. Directing your attention to 11-108.

1 A. Yeah.

2 Q. Can you describe what's depicted here?

3 A. Yeah. I don't recognize the air compressor, but that's
4 Johnnie's tool boxes, that's my old bike.

5 Q. Is that the bike that you referenced earlier?

6 A. Yeah.

7 Q. All right. Did you get that bike back?

8 A. No.

9 Q. All right. Directing your attention to 11-109, what is
10 that a picture of, sir?

11 A. The same.

12 Q. This is your old motorcycle?

13 A. Yeah.

14 Q. Okay. Directing your attention to 11-110, is this another
15 view of the same room?

16 A. Yeah.

17 Q. And is this that third room you mentioned that was not
18 being used or is this another room?

19 A. No, this is the one that had the pool table in it.

20 Q. So in addition to the motorcycle that's depicted, the
21 compressor and the tool boxes, there is a pool table in this
22 room?

23 A. It's not in there right now, but there used to be.

24 Q. All right. Directing your attention to 11-111, is there
25 another room leading off of this one?

1 A. That, that's the porch, actually. There's the pool table,
2 it looks like.

3 Q. Can you show with the laser pointer where the porch is?

4 A. Yeah. That looks to me like the pool table with a mattress
5 on top of it.

6 Q. Okay. Directing your attention to 11-113.

7 A. Yeah.

8 Q. Is that what you were referring to?

9 A. Yeah. Exactly.

10 Q. All right. And 11-114, is this the condition of the
11 clubhouse when you last saw it?

12 A. No.

13 Q. Does it look different?

14 A. Yeah.

15 Q. Okay. Were those mattresses on that pool table the last
16 time you were in there?

17 A. No.

18 Q. Okay. Directing your attention to 11-112, do you know what
19 that is?

20 A. No. Must be the bathroom, that's what I would think.

21 Q. Does it appear to be the bathroom?

22 A. Yeah. But it's all torn up.

23 Q. Directing your attention to 11 -- I'm sorry -- 11-115, do
24 you recognize that room?

25 A. That must -- no. I don't know.

1 Q. Okay. Directing your attention to 11-116, do you recognize
2 that?

3 A. Yeah, that's -- that's the bar when it's intact. See,
4 there is the hinge piece.

5 Q. Does that hinge piece appear to have been lifted up?

6 A. Yeah.

7 Q. All right. And so is this the area behind the bar?

8 A. Yeah.

9 Q. All right. And directing your attention to 11-117, what's
10 depicted in that photo?

11 A. The same thing.

12 Q. So when you say --

13 A. But that's looking out the other way.

14 Q. So when you say the same photo, is that the area behind the
15 bar?

16 A. Yes.

17 Q. And it's from an opposite direction?

18 A. No, it's -- one is looking out toward the front and the
19 other one is looking to the side.

20 Q. Of this L-shaped bar?

21 A. Yeah.

22 Q. Directing your attention to 11-118.

23 A. And that's looking out the back. That's the back porch.

24 Q. So is the bar area directly accessible from the back porch?

25 A. Yeah.

1 Q. And so this is also the bar area; is that correct?

2 A. Yeah.

3 Q. When you were knocked down and punched by Holiday, was
4 there anybody else back in this area at that time?

5 A. Yeah. Kickstand or Kick -- I don't know, he was a brand
6 new California brother.

7 Q. Were there any other victims of the beating back there?

8 A. No.

9 Q. All right. Did you know where Johnnie Old School was?

10 A. No.

11 Q. Did you know where Golf Clubs was?

12 A. He was outside somewhere when it started.

13 Q. And could you see where Panhead Mike was at that point?

14 A. I didn't see him until it was almost over with.

15 Q. And how about Two Dogs, could you see where he was?

16 A. He was on the other side of the bar.

17 Q. He was on the opposite side of the bar?

18 A. Mh-hm.

19 Q. All right. Directing your attention to 11-119, do you
20 recognize that area?

21 A. Yeah.

22 Q. What is that area?

23 A. That's toward the empty room behind, from behind the bar.

24 Q. Okay.

25 A. Actually, that 44 sign is over the door, I think, right

1 there, that you saw before.

2 Q. And the previous photo that had the 44 sign on it?

3 A. Yeah.

4 MS. MOHSIN: All right. Your Honor, at this time the
5 Government would move for the admission of proposed Exhibits
6 11-81 through 11-99, inclusive.

7 THE COURT: Each is received without objection.

8 (Exhibits 11-81 through 11-99 received, 2:01 p.m.)

9 MS. MOHSIN: And 11-101 through 11-119, inclusive.

10 THE COURT: Each is received.

11 (Exhibits 11-101 through 11-119 received, 2:01 p.m.)

12 BY MS. MOHSIN:

13 Q. I want to direct your attention now to proposed Government
14 Exhibit 11-144. Tell me if you recognize this person.

15 A. That's Dean.

16 Q. Dean. Was he a member of the Southern Arizona Chapter of
17 the Devils Diciples?

18 A. Yeah.

19 Q. And was he there on August -- excuse me -- April 27 of
20 2003?

21 A. Yes.

22 Q. Directing your attention to 11-146, do you recognize that
23 individual?

24 A. Yeah.

25 Q. Who is that?

1 A. Cuz.

2 Q. And this is the same Cuz that was also a member of that
3 chapter, correct?

4 A. Right.

5 Q. Directing your attention to 11-150, do you recognize that
6 individual?

7 A. Huevos.

8 Q. Huevos?

9 A. Mh-hm.

10 Q. And was he a member of the Southern Arizona Chapter?

11 A. Yeah.

12 Q. And did he drive in the vehicle with Cuz in the previous
13 picture when you drove to the desert?

14 A. Yes.

15 Q. Yes?

16 A. Mh-hm. Yes.

17 Q. Thank you.

18 Directing your attention to 11-153, do you recognize
19 the person depicted in that photo?

20 A. Yeah. That's my stepdaughter Tracy.

21 Q. And directing your attention to 11-155, do you recognize
22 the person depicted in that photo?

23 A. That's my wife.

24 Q. Is that your wife Terry?

25 A. Yes. Yeah.

1 Q. Okay. I want to direct your attention --

2 MS. MOHSIN: I'm sorry, at this time, your Honor, the
3 Government would move for the admission of proposed Exhibits
4 11-144, 146, 150, 153 and 155.

5 THE COURT: Without objection, each is received.

6 MS. MOHSIN: Thank you, your Honor.

7 (Exhibits 11-144, 146, 150, 153, 155 received, 2:01 p.m.)

8 BY MS. MOHSIN:

9 Q. I want to direct your attention now to some of the
10 individuals that you have talked about.

11 Directing your attention to proposed exhibit -- I'm
12 sorry an admitted exhibit. This is a previously admitted
13 Exhibit 11-234. Do you recognize anyone in that photo?

14 A. Little John. I recognize some people. I can't put a name
15 to them.

16 Q. Which one is Little John?

17 A. Right there (indicating).

18 Q. All right. Now, directing your attention to 11-236, do you
19 recognize that individual?

20 A. I'm not sure.

21 Q. All right. Directing your attention to 11-238.

22 A. That's Fast Eddie.

23 Q. Fast Eddie?

24 A. Mh-hm.

25 Q. And was he a member of the Devils Diciples?

1 A. Yeah.

2 Q. Do you recognize where these photos were taken?

3 A. No.

4 Q. Okay. Directing your attention to 11-239.

5 A. That's Cuz.

6 Q. Can you speak up, sir, please?

7 A. Cuz.

8 Q. Okay. Thank you.

9 And directing your attention to 11-240, do you
10 recognize this individual?

11 A. That would be Pauli.

12 Q. I'm sorry?

13 A. Pauli.

14 Q. Thank you.

15 I want to direct your attention now to admitted
16 Exhibit 12-30. Do you recognize anyone in that photo?

17 A. Yes. Sly, Fat Dog and Fast Eddie.

18 Q. And when you say Sly, which one is Sly?

19 A. On the left.

20 Q. And who is the individual in the center?

21 A. I believe that's Fat Dog.

22 Q. All right. You can turn that monitor if you are having
23 trouble seeing it at all or you can look at the other screen.

24 A. It's all right.

25 Q. All right. Who is the person on the right?

1 A. Eddy.

2 Q. Fast Eddie?

3 A. Mh-hm.

4 Q. Directing your attention to 13-53.

5 A. I think that's -- in the center is Dog and then that's
6 Detroit Red, I believe.

7 Q. Which one is Detroit Red?

8 A. On the right.

9 Q. And which one is Dog?

10 A. In the center.

11 Q. Directing your attention to 13-454, do you recognize anyone
12 in that photo?

13 A. Yeah.

14 Q. Do you want to use the laser pointer?

15 A. Yeah. I'm working at it.

16 That's Pauli. That's Grog, I believe. Fat Dog.

17 THE COURT: Speak into the microphone, sir, as best
18 you can.

19 THE WITNESS: And that's Holiday.

20 BY MS. MOHSIN:

21 Q. All right. You have identified Pauli, Holiday, Grog, and
22 who else?

23 A. Fat Dog.

24 Q. All right.

25 A. That might be Little Dog in the far back. I can't tell.

1 Q. Now, I want to direct your attention to 13-77, an admitted
2 exhibit. Do you recognize anyone in that photo?

3 A. Yeah.

4 Q. Who do you recognize?

5 A. Fangers, Little Dog, and Fat Dog.

6 Q. Can you identify those three with the laser pointer,
7 please?

8 A. Yes. That's Fat Dog, Little Dog and Fangers, I believe.

9 Q. Okay. I'm going to show you what's been marked and
10 admitted as 11-263. Do you recognize the person depicted in
11 this photo?

12 A. Holiday.

13 Q. I'm sorry, I can't --

14 A. Holiday, yes.

15 Q. Thank you.

16 And do you recognize the person in this photo?

17 A. Looks like String Bean.

18 Q. Sir, now, after the assault at the clubhouse you said that
19 you had been taken to the hospital and you had suffered some
20 injuries. I'm going to show you some photos and ask you if you
21 can identify them and describe some items from them.

22 Directing your attention to 11-35 in evidence, I'm
23 going to ask if you could display that, please.

24 Sir, do you recognize that individual?

25 A. I think that's Johnnie.

1 Q. And Johnnie Old School?

2 A. Yeah.

3 Q. And sir, can you represent whether you have seen him look
4 like that before?

5 A. What do you mean?

6 Q. Do you recognize that photo; when it was taken or around
7 the time it was taken?

8 A. Yeah. It would have been at the hospital.

9 Q. Okay. And is that what he looked like after the beating?

10 A. Yeah.

11 Q. Okay. Directing your attention to 11-37, can you identify
12 that individual?

13 A. That's Johnnie.

14 Q. Okay. Johnnie Old School?

15 A. Yes.

16 Q. All right. Is that another view of him?

17 A. Mh-hm.

18 Q. Directing your attention, sir, to 11-56, which is an
19 admitted exhibit, do you recognize that?

20 A. Yeah. That's me.

21 Q. Is that you?

22 A. I think so.

23 Q. I'm going to show you the photo close up.

24 A. Oh, that's Two Dogs, maybe.

25 Q. Do you recognize it?

1 A. Is that Two Dogs? I can't -- I'm not sure.

2 Q. Can't recognize it?

3 A. No.

4 Q. All right. I'm going to show you another photo, 11-49.

5 A. That's Two Dogs.

6 Q. Do you recognize 11-49?

7 A. Yeah. That's me.

8 Q. I'm sorry, I messed up the number. I'm sorry. 69, 11-69.

9 Do you recognize the person in this photo?

10 A. That's Two Dogs.

11 Q. That's Two Dogs?

12 A. Mh-hm.

13 Q. And he was with you in the Canyon, as well?

14 A. Yes, he was.

15 Q. Okay. Directing your attention now to 11-44, do you
16 recognize that?

17 A. Yeah. That's me.

18 Q. That's you? All right. And is that taken at the hospital?

19 A. Yes.

20 Q. Okay. Which one of your eyes, which of your eyes was --
21 and cheek was broken?

22 A. The other side.

23 Q. The side that's not showing in that picture?

24 A. Mh-hm.

25 Q. And you had indicated that the firearm had gone off?

1 A. It's all on the other side.

2 Q. It occurred on the other side of your face?

3 A. Mh-hm.

4 Q. So that is not depicted in this photo?

5 A. No.

6 Q. Directing your attention to 11-45, do you recognize that?

7 A. Yeah.

8 Q. Is that -- who is that?

9 A. That's me.

10 Q. Okay. Is that your tattoo?

11 A. Yeah.

12 Q. Directing your attention to 11-46, can you describe that

13 injury you have in that photo?

14 A. Just banged up.

15 Q. Okay. And that's you?

16 A. Yeah.

17 Q. Directing your attention to 11-47, who is depicted in this

18 photo?

19 A. That might also be me. I think it is.

20 Q. All right. And was there --

21 A. Yeah, it is. I can see the tattoo.

22 Q. Was there an injury in your elbow there on your left arm?

23 A. Yeah.

24 Q. Okay. And what type of injury was that?

25 A. I don't know. That might have got caused when I went down

1 the side of that mountain.

2 Q. Okay. It was a cut of some kind?

3 A. A big bruise, yeah.

4 Q. Directing your attention to 11-48, do you recognize that?

5 A. Yeah. That's me.

6 Q. Okay. Directing your attention to 11-49, is that -- what's
7 that a picture of?

8 A. Yeah, the other elbow, I guess.

9 Q. Your other arm?

10 A. Yeah. I don't know what they were taking the pictures for.

11 Q. Directing your attention to 11-50, what is that a picture
12 of, do you know?

13 A. Yeah. My legs.

14 Q. Now, in this particular image can you describe what's being
15 shown?

16 A. Like the bottom of this leg and your feet.

17 Q. Okay. Now, directing your attention to 11-51?

18 A. Same.

19 Q. That's the same, just a different view of your legs?

20 A. Yeah.

21 MS. MOHSIN: All right. Your Honor, at this time the
22 Government would move for the admission of the following
23 exhibits: 11-37, 11-69, and then 11-44 through 11-51
24 inclusive.

25 MS. STOUT: No objection.

1 THE COURT: Each is received.

2 (Exhibits 11-37, 69, 44 through 51 received, 2:01 p.m.)

3 MS. MOHSIN: One moment, please.

4 (Discussion held off the record at 2:16 p.m.)

5 MS. MOHSIN: Your Honor, the Government has no further
6 questions of Mr. Higgins. I just want to make sure that I
7 moved for the admission of two additional exhibits, 11-81 and
8 82. I don't recall if I did or did not.

9 THE COURT: 81 and 82 are both received.

10 MS. MOHSIN: Thank you, your Honor.

11 Thank you, Mr. Higgins.

12 THE COURT: I should say they have previously been
13 moved and received.

14 MS. MOHSIN: Yes, your Honor.

15 THE COURT: Cross examination, then?

16 MS. STOUT: Yes, your Honor.

17 THE COURT: Ms. Stout.

18 CROSS-EXAMINATION

19 BY MS. STOUT:

20 Q. Good afternoon.

21 Mr. Higgins, since the incidents that you have been
22 testifying about, you have had many discussions with various
23 law enforcement agencies, correct?

24 A. I wouldn't say that, no.

25 Q. Well, is it true that you spoke with the police in 2003

1 following what we will call the Box Canyon incident?

2 A. You mean at the hospital?

3 Q. The hospital.

4 A. Yeah.

5 Q. Okay. You also had a lengthy conversation, isn't it true,
6 sir, with a Pima County correctional officer when you were
7 in the jail for the Heather Ford rape in November -- on
8 November 17, 2004?

9 MS. MOHSIN: Objection. Assumes facts not in
10 evidence, your Honor.

11 THE COURT: Well, I think it's an open-ended question.
12 I don't think it impermissibly suggests.

13 MS. STOUT: Thank you, your Honor.

14 THE WITNESS: You said with a female deputy?

15 BY MS. STOUT:

16 Q. No, not a female. A correctional officer at the Pima --
17 or deputy, they might call him, at the Pima County Jail in
18 November, you took a letter to him; is that accurate?

19 A. Yes. Yes. That is correct.

20 Q. And you had a lengthy conversation, didn't you?

21 A. Yes.

22 Q. Did they tell you they were taping you?

23 A. No.

24 Q. You also testified before the grand jury?

25 A. That's right.

1 Q. In this building?

2 A. Yes.

3 Q. And that was in October of 2010?

4 A. Yes.

5 Q. Now, you have already told us that you weren't truthful
6 with the police at -- following the Box Canyon incident?

7 A. That's correct.

8 Q. But I'm going to assume you were truthful with the
9 correctional officer and the grand jury, is that accurate?

10 A. Correct.

11 Q. Now, when you testified before the grand jury in October of
12 2010 you had already been charged with the incident involving
13 Heather Ford?

14 A. And sentenced.

15 Q. And sentenced. Okay.

16 You were on probation at the time, then?

17 A. Almost finished with it.

18 Q. Almost -- excuse me, almost had completed your sentence?

19 A. Yes.

20 Q. Okay. And you were told when you testified before the
21 grand jury here that you weren't a target of the investigation
22 of the Devils Diciples Motorcycle Club going on before the
23 grand jury at that time, correct?

24 A. I believe that's correct.

25 Q. Okay. And you understood that to mean you weren't going to

1 be charged, as far as you knew?

2 A. I already had been.

3 Q. Charged with the incidents -- the investigation that they
4 were discussing before the grand jury in 2010, racketeering.

5 A. Correct.

6 Q. All right. Now, when you were prosecuted for the sexual
7 assault of Ms. Ford, you spoke with the probation officer,
8 correct?

9 A. From the jail, yes.

10 Q. Okay. Because probation officers write reports about
11 defendants that are going to be sentenced; is that accurate?

12 A. I don't have any idea.

13 Q. But you do remember speaking to a probation officer?

14 A. Who are you referring to?

15 Q. You just indicated you spoke with a probation officer in
16 the jail.

17 A. The correction officer, yes.

18 Q. Okay.

19 A. I spoke to Pretrial Services and I spoke to my Probation
20 Officer after I had been locked up for about 20 months.

21 Q. Okay. And they asked questions. She asked you -- he or
22 she asked you questions about the Devils Diciples Motorcycle
23 Club?

24 A. Which person are we talking about?

25 Q. Before you were sentenced for the Heather Ford incident,

1 there was a presentence report written?

2 A. Okay.

3 Q. Is that accurate, sir?

4 A. Yes, there is.

5 Q. And the purpose of that is to provide the Judge, whoever is
6 going to sentence you in Arizona on the Heather Ford incident,
7 with information about you; is that accurate?

8 A. No. You're talking about Pretrial Services? That was
9 before I was even charged officially.

10 Q. Would it refresh your recollection to look at a document,
11 sir?

12 A. Certainly.

13 MS. STOUT: Thank you. May I approach, your Honor?

14 THE COURT: Yes.

15 MS. STOUT: Thank you.

16 THE WITNESS: I just want to make sure we're talking
17 about the same person.

18 BY MS. STOUT:

19 Q. Of course. Just take a look at that document for a moment.

20 A. Okay. That's Pretrial Services.

21 Q. You were interviewed for this report; is that accurate?

22 A. On a couple of times, I think, yes.

23 Q. Thank you.

24 And at that time you indicated to Pretrial or
25 Probation that there was no real national organization of the

1 Devils Diciples; is that true?

2 A. I couldn't answer that.

3 Q. Well, why couldn't you answer that?

4 A. In what -- I just don't remember, that simple.

5 Q. Well, could I refresh your recollection by showing you the
6 report and what was written?

7 A. I don't have any objection to that.

8 Q. Well, thank you.

9 A. I don't think I have ever read that report, either.

10 Q. You have a constitutional right to read your report before
11 sentencing.

12 A. I'm well aware of that.

13 MS. MOHSIN: Objection, your Honor. Assumes facts not
14 in evidence.

15 THE COURT: I agree with that. Let's have questions
16 and answers as opposed to statements, Ms. Stout.

17 BY MS. STOUT:

18 Q. Would it refresh your recollection to look at this report
19 of what you said to a law enforcement officer; yes or no?

20 A. Yeah. Since I don't remember it, it would obviously help
21 me.

22 Q. Thank you, sir.

23 I'm just going to direct you to this paragraph here
24 and look at it. Read it to yourself, not out loud?

25 A. Yeah, I agree with that.

1 Q. Thank you, sir.

2 So this refreshes your recollection?

3 A. I have never seen that paper, so it -- you know, I --

4 THE COURT: The question now becomes whether --

5 MS. STOUT: Is it -- I'll ask --

6 THE COURT: The question now becomes whether, having
7 read whatever that was, if the witness now has an independent
8 recollection irrespective of what may have been written on the
9 page, an independent recollection on the substance of whatever
10 the question is that's coming up now. And the question is
11 what?

12 BY MS. STOUT:

13 Q. Is it true, then, that Devils Diciples didn't have a real
14 national organization?

15 A. As a criminal organization?

16 Q. Yes.

17 A. Yes, that is true.

18 Q. And isn't it also true, sir, that chapters of the Devils
19 Diciples in different states had different rules?

20 A. Not that I'm aware of, but that's possible, I suppose, some
21 of them added to the bylaws. We didn't.

22 Q. So there was bylaws --

23 A. Mh-hm.

24 Q. -- as you understood, a one-page set of bylaws that pretty
25 much you thought everybody abided by?

1 A. That's correct.

2 Q. All right. But when -- would you agree with me that as far
3 as what Michigan did, and maybe California or Arizona, things
4 were done somewhat differently among those different chapters?

5 A. I can't really answer that.

6 Q. But you answered it before the grand jury, so I think you
7 can answer it now.

8 Sir, was it your testimony before the grand jury:

9 Answer: Just because it's different, as far away from
10 Michigan as we were, California and Arizona, and being here in
11 Michigan directly under that, I mean, things were different.

12 MS. MOHSIN: Can I have a page number, please?

13 MS. STOUT: That is page 86 of the grand jury
14 transcript.

15 MS. MOHSIN: Thank you.

16 BY MS. STOUT:

17 Q. Was that your testimony, sir?

18 A. Yes, it was.

19 Q. And you were sworn to tell the truth when you gave that
20 testimony?

21 A. And I certainly was telling the truth.

22 Q. And did you give the truth, sir?

23 A. Yes.

24 Q. Thank you.

25 Now, when you joined, you said you joined the Devils

1 Diciples in approximately 1993?

2 A. Yeah, about that time.

3 Q. About that. Okay. And at that time you agreed to give
4 your bike to the club; isn't that accurate?

5 A. That is quite accurate.

6 Q. All right. As a matter of fact, sir, you believed that was
7 a condition of getting into the club --

8 A. Right.

9 Q. -- that you actually gave the title to the club. It was
10 understood that it belonged to them?

11 A. We did not actually give the title to it, but yes, I -- you
12 don't hear any objection to me. I have not tried to get the
13 bike back, you know. I know who has it.

14 Q. Thank you, sir.

15 A. You know, it said property of Devils Diciples right on it.

16 Q. And when you joined, you also indicated to one -- during
17 one of those interviews that you were not in the -- you were
18 not joining to steal motorcycles, right?

19 A. Correct.

20 Q. All right. Now, you said on direct that you lived in the
21 trailer behind the clubhouse in Arizona?

22 A. For about the last six months, yes.

23 Q. All right. And let's move to the Heather Ford incident.

24 You testified both here and before the grand jury that
25 you were directed to the clubhouse by your wife?

1 A. Correct.

2 Q. All right. And that would be Tracy Way?

3 A. No, that's my stepdaughter. Terry Wayman.

4 Q. Terry Way?

5 A. Wayman.

6 Q. Wayman. Thank you, sir.

7 Now, when you testified today, I believe, that when
8 you went into the club you noticed that Heather Ford had a
9 broken finger.

10 A. Mh-hm.

11 Q. And no other injuries; is that correct?

12 A. That's how it appeared to me at that time, yes.

13 Q. All right. Now, when you were arrested for that incident
14 in 2004, it was what, about a year after the incident that you
15 were arrested?

16 A. Yes. About that.

17 Q. And you were incarcerated at Pima County Jail?

18 A. Yes.

19 Q. And when you talked to that correctional officer about the
20 letter --

21 A. Mh-hm.

22 Q. -- let's clarify that. You went to the correctional
23 officer because you felt your wife had received a letter or
24 that she --

25 A. She was being actively threatened.

1 Q. And you believed that was by Cuz?

2 A. That's what she said in the letter. I think that's a
3 matter of record.

4 Q. So you wanted the correctional officers to know that, or
5 law enforcement, in general?

6 A. Right.

7 Q. And that's why you went to them?

8 A. Correct.

9 Q. Okay. And you also then continued to talk to the
10 correctional officer and you discussed the Heather Ford
11 incident with him, didn't you?

12 A. I don't remember. I only saw him once.

13 Q. Right. But you had a lengthy conversation with him that
14 one time?

15 A. Yeah.

16 Q. Now, you had told him, too, that you didn't feel you did
17 anything wrong as a Devils D disciple or as a human; is that fair?

18 A. Uh, I don't know that I would agree with that, but if
19 that's what I said, that's what I said.

20 Q. Well, it was only a year after the incident, right?

21 A. Yeah.

22 Q. Yes?

23 A. Yes.

24 Q. Well, if you don't speak loud, the court reporter can't
25 hear you and I can't hear you, so thank you.

1 A. All right.

2 Q. You also told him that Ms. Ford stole over \$1,000 from the
3 Devils Diciples, right?

4 A. Yes.

5 Q. You also told him that that girl is no innocent, either,
6 right?

7 A. Correct.

8 Q. Now, you indicated to that correction officer, "Half the
9 marks she already had on her from Ringo." Is that accurate?

10 A. I couldn't tell you.

11 Q. Well, who is Ringo?

12 A. Her -- I believe we discussed him earlier in here. He was
13 a body -- or a stuntman and he was at one time engaged to her.

14 Q. So what marks were on her body?

15 A. I really couldn't say. I know that her hand was injured.
16 Her and Tina Butts had been fighting, so that her face was
17 probably -- I cannot honestly remember.

18 Q. You indicated to the correctional officer that half of them
19 were from her boyfriend?

20 A. Yeah.

21 Q. How did you know that?

22 A. I was not thinking very clearly at that point. I had been
23 up all night and I was worried about Angel.

24 Q. So you just made that up?

25 A. I didn't say that. I said I don't recollect what I said.

1 You said that.

2 Q. Would it refresh your recollection to view that
3 conversation?

4 A. You may do what you want. I don't remember it, so how is
5 that going to recollect it?

6 MS. STOUT: Judge, may we approach?

7 THE COURT: Yes, you may approach.

8 MS. STOUT: Thank you.

9 THE COURT: You mean the witness?

10 MS. STOUT: Your Honor, there is a CD that we received
11 on Thursday -- Tuesday or Wednesday, I'm sorry -- and to
12 refresh recollection you don't play those things before the
13 jury, so I am not sure how I can refresh his recollection about
14 things he said that are material, if I can't -- without him
15 seeing it, so I -- that's my concern.

16 THE COURT: I'm not sure that -- well, you think you
17 have a basis to refresh recollection or just to introduce what
18 you -- what relates to the prior inconsistent statements or
19 past memory recorded or some other mechanism?

20 MS. STOUT: Well, I could do it in another way, your
21 Honor, but I was doing it in recollection and he denies
22 recalling it.

23 THE COURT: Why don't you consult briefly with
24 Ms. Mohsin and see if there's an agreement.

25 MS. STOUT: All right.

1 THE COURT: Stretch your legs.

2 (Discussion off the record between Counsel at 2:32 p.m.)

3 THE COURT: Let's come back to order.

4 MS. STOUT: Thank you, your Honor.

5 THE COURT: Ready to proceed?

6 MS. STOUT: I think I can rephrase the question and
7 maybe clean this up.

8 THE COURT: All right. Very well.

9 BY MS. STOUT:

10 Q. Sir, Mr. Higgins, you're aware that Ringo beat Ms. Ford or
11 something?

12 A. Most of the women that he was involved with. Most of
13 the --

14 Q. But I didn't ask about most women. I asked about Ms. Ford.

15 A. No, I am not.

16 Q. So when you told the correctional officer that half the
17 marks on her body were associated with Ringo, you were just
18 making that up?

19 A. I don't know what I was thinking at the time. Like I said,
20 I was --

21 Q. Did she have marks on her body when you walked into the
22 room?

23 THE COURT: Please allow him to conclude. He was
24 saying something else when you began another question,
25 Ms. Stout. Please allow a conclusion to that, if he wishes to.

1 THE WITNESS: That's all right.

2 THE COURT: Go ahead, Ms. Stout.

3 BY MS. STOUT:

4 Q. When you walked into the clubhouse pursuant to your wife's
5 request, something bad was happening, were there marks on
6 Ms. Ford's body?

7 A. I could not tell you what they were, if there were. There
8 probably was, you know. I mean, I didn't spend a lot of time
9 in there.

10 Q. Were there marks from jumper cables?

11 A. I don't know.

12 Q. Did you see any jumper cables?

13 A. I can't say that I did. I know there were tasers there.

14 Q. How many?

15 A. Quite a few.

16 Q. Were there marks from tasers?

17 A. I didn't see any. I don't think tasers leave marks. I
18 mean, I didn't have any.

19 Q. Okay. Whose tasers were they?

20 A. Dean worked for United Cutlery and he brought them there.
21 Crossbows, tasers. A lot them were broken and Golf Clubs fixed
22 them.

23 Q. So they were at the clubhouse?

24 A. Yeah.

25 Q. Tasers?

1 A. Mh-hm.

2 Q. And you saw them out when Heather Ford was in the
3 clubhouse?

4 A. No, I didn't say that, but when I talked to them
5 afterwards, Golf Clubs admitted to having used one on her.

6 Q. Did he acknowledge using jumper cables on her nipples?

7 A. No.

8 Q. No?

9 A. No.

10 Q. How about the hose?

11 A. What hose?

12 Q. Oh, you're not aware of a hose that was used on this poor
13 woman?

14 A. No, I'm not.

15 Q. Could she walk?

16 A. Yes.

17 Q. She was naked, right?

18 A. Not for very long after I got called in there, but --

19 Q. Well, you got called out --

20 A. When I came in there, she was naked, yes.

21 Q. Stark naked?

22 A. That's --

23 Q. And how many men were standing around her?

24 A. Two.

25 Q. Who?

1 A. Johnnie and -- no, Two Dogs, that's three. Three of them.

2 Q. I'm sorry, Johnnie?

3 A. Two Dogs.

4 Q. Two Dogs?

5 A. And Golf Clubs.

6 Q. I'm sorry?

7 A. And Golf Clubs.

8 Q. And Golf Clubs?

9 A. Mh-hm.

10 Q. All right.

11 A. And Tina Butts and some other woman that I don't know the

12 name of.

13 Q. Okay. And when you walked in on this scene, you got a

14 phone call, is that what --

15 A. Yes.

16 Q. So you walked out to take the call?

17 A. I already took the phone call inside. I couldn't hear what

18 Panhead was saying.

19 Q. So you don't know what continued to happen to this woman

20 when you took the phone call?

21 A. No.

22 Q. Now, did you hang up that phone call and then call the

23 police?

24 A. No, I did not.

25 Q. Did you call them later that day?

1 A. No.

2 Q. Call them the next day?

3 A. No. I didn't call them at all.

4 Q. Did you call them when you learned she was raped and
5 sodomized?

6 A. I don't believe that she was raped or sodomized.

7 Q. Did you call them when you learned she was tasered?

8 A. No. I told you, just told you, I did not call them.

9 Q. Thank you.

10 A. You're welcome.

11 Q. Now, when you learned about this incident to Heather Ford,
12 did you throw Two Dogs out of your club?

13 A. No.

14 Q. Did you throw Johnnie Old School out of your club?

15 A. No, I did not.

16 Q. Did you throw Golf Clubs out of your club?

17 A. No.

18 Q. Now, you testified that you -- or did you testify that you
19 stopped some action that was going on when you walked in?

20 A. Yeah. She testified that, also.

21 Q. Who is she?

22 A. Heather Ford.

23 Q. That you did what?

24 A. That I came in and stopped it.

25 Q. Stopped what?

1 A. The incident.

2 Q. Did you hear her testify?

3 A. It was in my paperwork.

4 Q. Well, when you say -- what did you stop? Because you said
5 she wasn't raped or sodomized or jumper cabled or --

6 A. I didn't say that she wasn't hit or tasered.

7 Q. Okay. Was she duct taped?

8 A. Maybe. I don't remember. I mean, it's been a long time.

9 Q. You don't remember if she was duct taped?

10 A. I don't.

11 Q. But you remember an awful lot about what happened to you,
12 don't you?

13 A. Not -- I don't remember a lot that happened to me.

14 Q. Now let's talk about Box Canyon that followed the, I guess,
15 alleged rape of Heather Ford.

16 Let's back up. You were -- weren't you charged with
17 sodomy and rape?

18 A. No, I was not.

19 Q. You were charged with sexual assault?

20 A. No. I was charged with kidnapping.

21 Q. That's what you pled guilty to.

22 A. Right. Right.

23 Q. But what were you charged with, sir?

24 A. Oh, I couldn't tell you. I was probably charged with the
25 children, too, and they weren't -- I never even saw them. I

1 was charged with conspiracy of first degree murder for someone
2 that never was killed.

3 Q. So you're just an innocent?

4 A. I'm not innocent. I -- I am obviously guilty. I did seven
5 years total.

6 Q. So what you pled to and what you were charged with are two
7 different things?

8 A. Isn't -- yeah, that's generally what happens when you
9 plead.

10 Q. You made a plea bargain.

11 A. The advice of my lawyer, that's what I did.

12 Q. You did. So you got lesser charged than when what the
13 allegations and charges were.

14 A. Actually, I got additional charges.

15 Q. Oh, did you?

16 A. Yeah.

17 Q. That's not a very good lawyer.

18 MS. MOHSIN: Objection, your Honor.

19 THE COURT: Ms. Stout, let's not have editorials.

20 MS. STOUT: Sorry.

21 THE COURT: Shall we, please?

22 MS. STOUT: Okay.

23 THE COURT: Let's ask questions.

24 BY MS. STOUT:

25 Q. So at the church meeting on Sunday following the rape of

1 Heather Ford --

2 MS. MOHSIN: Objection as to the characterization.
3 The witness has repeatedly said he was neither charged with it,
4 nor did he witness it.

5 THE COURT: I will invite counsel to rephrase, at
6 least moderately, please.

7 MS. STOUT: All right.

8 BY MS. STOUT:

9 Q. The alleged rape of Ms. Ford. So your main concern was
10 just that she might have been hit and tasered and she had a
11 broken finger?

12 A. My concern was that it happened at all.

13 Q. Okay. You said that in the clubhouse you saw my client,
14 Mr. Witort; is that true or not true?

15 A. Who?

16 Q. Holiday?

17 A. Yes, that's true.

18 Q. And you said you went to hug him?

19 A. I cared very much for that man.

20 Q. You cared very much for him, is that what you said?

21 A. That's what I said.

22 Q. He was good to you, a friend?

23 A. Good one.

24 Q. And you said that because of the alleged rape of Heather
25 Ford you wouldn't be surprised if you got a black eye.

1 A. That's correct.

2 Q. Did you testify that -- I think I heard you testify that
3 Mr. -- or Holiday, as you know him, correct --

4 A. Mh-hm.

5 Q. -- had tears in his eyes?

6 A. That's correct.

7 Q. Did you -- what did you take that to mean, he didn't want
8 to hurt you?

9 A. I don't know what it meant. I just stated the fact.

10 Q. Do you know him as a gentle giant?

11 A. I don't know if I would call him that, but I know -- I knew
12 him as a brother.

13 Q. You knew him as a kind man?

14 A. I don't know how to answer that.

15 Q. And now after you said that you were hit by Holiday, you
16 were then hit by a pistol?

17 A. Yes.

18 Q. And you didn't know who hit you with that pistol, right?

19 A. I do not, no, know who did that.

20 Q. And you also told the grand jury that you're not sure if
21 your damage to your eye socket or cheek was because of that
22 pistol or not?

23 A. Correct.

24 Q. And you then remember -- but you know that the pistol that
25 you were hit with wasn't by Holiday?

1 A. No.

2 Q. All right. And then you remember somebody named Kickstart
3 holding a gun at you?

4 A. At -- when I was on the floor, yeah, because I started to
5 get up.

6 Q. And you said you were tasered like Heather Ford was?

7 A. Yeah.

8 Q. And you don't know who tasered you?

9 A. No.

10 Q. You have no idea?

11 A. I was face-down.

12 Q. And you said you were zip-tied?

13 A. Mh-hm.

14 Q. And you have no idea who did that either?

15 A. No.

16 Q. Now, you said Cuz. What's Cuz's real name?

17 A. Lowell.

18 Q. Lowell?

19 A. Yes.

20 Q. And he had a bat?

21 A. Yes.

22 Q. All right. And you said that Mack Tonight?

23 A. Mh-hm.

24 Q. Is that his club name?

25 A. Yes.

1 Q. He had cigarettes that he was putting out on you?

2 A. Yeah.

3 Q. Now, you testified before the grand jury that Cuz and
4 Little John were in charge of this event?

5 A. Okay.

6 Q. Correct?

7 A. I don't recall, but that's the way it was.

8 Q. That they were in charge of this event, you're saying?

9 A. Yes.

10 Q. And Cuz is in what role with the Devils Diciples?

11 A. He was vice president of the Tucson chapter.

12 Q. So he was a colleague, so to speak, of yours?

13 A. From the same chapter.

14 Q. And you said that Little John was from LA?

15 A. Correct. Hollywood.

16 Q. Hollywood chapter. And he was a boss there?

17 A. Mh-hm.

18 Q. Now, Cuz or Lowell owned the property that your clubhouse
19 was on?

20 A. Correct. Or the whole thing, actually. I mean, the
21 property and the building weren't separate.

22 Q. And you said about what, three acres, I think you said?

23 A. Yeah.

24 Q. Now, he wanted to sell the property, right?

25 A. We looked into it. We got an appraisal. Yes, he did want

1 to sell it.

2 Q. And it was worth a lot more than what he paid for it,
3 right?

4 A. Yes.

5 Q. Was it appraised at almost 250,000?

6 A. I'm not sure exactly what it was, but it was about that.

7 Q. Now, was that -- part of the reason was, there was wells on
8 the property?

9 A. Correct.

10 Q. And that's water, like --

11 A. Nine of them.

12 Q. Dig down and get water, is that what you mean by wells?

13 A. Yes.

14 Q. And that's really valuable in Arizona, isn't it?

15 A. They won't issue any permits, they haven't for a long time,
16 so you can't -- you have to buy city water as opposed to having
17 your own.

18 Q. Certainly there's a hope that they will need that water in
19 Arizona?

20 A. It just saves you a lot of money.

21 Q. Okay. So he wanted to sell this because it was worth so
22 much money, but not everybody else did; is that correct?

23 A. Yeah.

24 Q. All right. You didn't want to sell it, did you?

25 A. I was concerned that he was near to filing bankruptcy and

1 it could be lost that way. No, I really didn't want to sell
2 it or -- you know, we did go look for other property.

3 Q. So is it fair to say, then, that everybody in the club
4 didn't agree that it should be sold?

5 A. Right.

6 Q. And Cuz had serious financial problems and wanted to sell
7 it?

8 A. Right.

9 Q. Because he was going to go bankrupt perhaps?

10 A. Yeah.

11 Q. True?

12 A. True.

13 THE COURT: Are you going to wrap up in just a few
14 minutes or shall we take our afternoon recess?

15 MS. STOUT: We can take a recess, your Honor. Thank
16 you.

17 THE COURT: Twenty-minute recess. We will resume at
18 ten past the hour, ladies and gentlemen.

19 (Jury out, 2:49 p.m.)

20 (Recess taken, 2:49 p.m. - 3:18 p.m.)

21 THE CLERK: All rise. Court is back in session.

22 THE COURT: Let's call the jury in.

23 THE CLERK: They have a side bar matter.

24 MS. STOUT: Just one issue, your Honor, outside the
25 presence of the jury.

1 THE COURT: Well, hold on there a moment with the
2 jury. Yes, be seated.

3 Ms. Stout?

4 MS. STOUT: Your Honor, I wanted to bring this to the
5 Court's attention so as to not say something in front of the
6 jury that the Court would have a problem with.

7 I think it's relevant to bring up the fact that this
8 gentleman has reported a mental illness to a correctional
9 officer and his probation officer, because I think it's
10 relevant to his perception of how he views things. He's
11 reported that he's been diagnosed as a sociopath and he
12 actually called it a homicidal sociopath, but I would be
13 satisfied with sociopath. I think that's relevant to how he
14 perceives things, his reactions to things, everything about
15 him, his, his ability to tell the truth. That's a serious
16 diagnosis.

17 THE COURT: Government agrees or disagrees?

18 MS. MOHSIN: I disagree. There's been no diagnosis.
19 In fact, in a conversation that he had with the corrections
20 officer, which was a very sort of laid-back conversation, I
21 think what he said to the correction's officer is that people
22 have said that to him; that 25 years ago, someone said to him
23 that he was a homicidal sociopath.

24 That is a conversation he has during the course of a
25 communication with a corrections officer in discussion about a

1 number of different topics. It's a very casual conversation.
2 It's certainly not a reporting of a mental illness. I'm not
3 aware of a mental illness.

4 What I am aware of is casual conversation in which
5 they are talking about whether or not there were going to be
6 any repercussions by this individual as a consequence of the
7 Box Canyon beatings, and the fact that he did not take any
8 actions, even though someone once said that to him.

9 Now that statement was made in 2004, so it would have
10 been 25 years before then, is what he says to the corrections
11 officer. I do not think it's admissible. It is not probative
12 of truthfulness. I don't think it's relevant. I don't think
13 it's relevant for any legitimate purpose, and therefore, I
14 would ask that she not be permitted to make that line of
15 inquiry.

16 THE COURT: The objection is relevance. And the
17 relevance, you suggest, is the propensity to accurately report,
18 propensity to tell the truth or the absence of it?

19 MS. STOUT: Let me just state for the record that I
20 got a very important 2004 interview on Wednesday. I tried --
21 I'm trying to comprehend everything in it. It's quite lengthy.
22 It's not a casual conversation. It's somebody reporting what
23 they perceive is a threat to their wife. So it's a serious
24 conversation. And it's his choice to further engage with the
25 correctional officer about many things.

1 He indicates to the correctional officer that it was a
2 psychiatrist that made that diagnosis. And he also said that
3 he's easily provoked, many other things. Apparently he met --
4 or he's just a, a pathological liar, which I certainly think
5 the jury has a right to know.

6 THE COURT: He said that about himself?

7 MS. STOUT: Yes. He said that about himself in this
8 tape that I received on Wednesday, to the correctional officer.

9 THE COURT: He said that he assesses himself that way?

10 MS. STOUT: He says, "I'm not so sure if I believe it
11 or I don't," but he said, "people 20 years ago," as Ms. Mohsin
12 is correct, "called me a homicidal sociopath." He said it was
13 a psychiatrist's diagnosis and the psychiatrist said he's
14 easily provoked. I don't know who the psychiatrist was.

15 MS. MOHSIN: May I respond?

16 THE COURT: Yes.

17 MS. MOHSIN: I've -- this is a casual conversation.
18 It's not a custodial interrogation of any kind. It is a
19 meeting between him and a corrections officer in which they
20 talk about a lot of different things, very, very limited about
21 the relevant circumstances of what's going on here today.

22 The vast majority of this conversation relates to
23 other people in the prison, threats made against him, people
24 who have assaulted him in the prison. It is not overwhelmingly
25 about this case.

1 That one conversation that she is referring to in
2 which Ms. Stout acknowledges that he says just that, that
3 people have told him that, the psychiatrist that he's referring
4 to is a member of the Devils Diciples that he spoke to about it
5 at some later date.

6 Once again, your Honor, this is not --

7 THE COURT: Wait. The psychiatrist was a Devils
8 Diciples member?

9 MS. MOHSIN: Yes. That's correct. That's correct.
10 Because I listened to that portion very carefully myself.

11 MS. STOUT: Which is more the reason.

12 MS. MOHSIN: There is a, there is a, there is a
13 professor of --

14 MS. STOUT: We can play it.

15 MS. MOHSIN: -- at the University of South Carolina
16 or South Florida -- excuse me -- South California who, too, is
17 a member of the Devils Diciples that we're aware of.

18 THE COURT: Here's where this case would go if I, if
19 I were to permit this line of questioning: Down a rabbit hole
20 chasing more and more details that are not relevant to the
21 matters at issue in this case.

22 Rule 403 provides a limitation for matters that would
23 be unnecessarily distracting and insufficiently tied to the
24 matters that actually matter, matters that actually are at
25 issue in the case.

1 This kind of testimony from years ago, harkening to
2 things that were supposedly said decades earlier even than that
3 are not sufficiently probative of anything significant in this
4 case.

5 And I sustain the Government's objection on relevance
6 and we'll call the jury in.

7 (Jury in, 3:24 p.m.)

8 THE COURT: The jury has assembled. The witness and
9 others may be seated, please.

10 Ms. Stout, please proceed.

11 MS. STOUT: Thank you.

12 BY MS. STOUT:

13 Q. Mr. Higgins, we were talking about Cuz, or Lowell, who is
14 also known as Cuz, who was part of your chapter in Arizona,
15 correct?

16 A. Yes.

17 Q. Okay. And we were talking about his financial woes. You
18 agreed that he might have been ready to file bankruptcy back
19 in the early 2000's, late 19 -- late 1990's or early 2000's,
20 correct?

21 A. Yes.

22 Q. Okay. Now, you indicated that he wanted to sell the
23 property because it increased so much in value, yes?

24 A. Yes.

25 Q. You have to speak for the court reporter.

1 A. Yes.

2 Q. Thank you.

3 And you indicated that you were not in agreement with
4 this?

5 A. I wasn't against it. You know, if we could have found --
6 we did actually go look at some other properties.

7 Q. Well, you did testify before a grand jury, as we
8 established before, in 2010; is that accurate?

9 A. Yes.

10 Q. And you were sworn to tell the truth, against penalty of
11 perjury, correct?

12 A. Correct.

13 Q. And you testified at that time that you did not want to
14 sell the property; is that accurate?

15 A. Right.

16 Q. All right. And you also testified that there was a
17 disagreement causing a division in your club over the sale of
18 this property; is that accurate?

19 A. Yes.

20 Q. All right. And you said it almost led to having two
21 chapters; fair statement?

22 A. I believe that was what I said about when I first got in
23 the club, between Cuz and Sleepy, there were two factions.

24 Q. Okay. You were asked the question --

25 MS. MOHSIN: Page number, please.

1 BY MS. STOUT:

2 Q. -- on page 116 of the grand jury transcript:

3 "Cuz wanted to sell the property because he was going
4 bankrupt?

5 Answer: Right.

6 Question: And did you not want to sell it, the
7 property?

8 Answer: No.

9 Question: Did this disagreement develop into a divide
10 between members of the clubhouse?

11 Answer: Yes."

12 Then you were asked: "What type of divide? What did
13 it lead to?

14 Answer: It led to just about having two chapters.
15 Nobody that was on Cuz's side would do any work, you know, on
16 the place or anything, couldn't get dues up, and it was five to
17 five that way."

18 A. Okay.

19 Q. Was that the truth or perjury?

20 A. I don't have a problem with that statement.

21 Q. So that was the truth?

22 A. Yes.

23 Q. And the divide was, as you testified to, on Cuz's side to
24 sell it, Wizard, Mac, Huevos and Dean?

25 A. That seems reasonable.

1 Q. And on your side, besides you, of course, Doc, Johnnie
2 Old School, Gulf Clubs and Two Dogs; accurate?

3 A. Mh-hm.

4 Q. And Johnnie Old School, Two Dogs, Golf Clubs, and you, were
5 the one pushed off a cliff by Cuz, correct?

6 A. Yeah.

7 Q. You indicated on direct that it was Cuz who ordered Two
8 Dogs, Golf Clubs, Johnnie Old School, and yourself, into this
9 yellow truck; is that accurate, sir?

10 A. (No response.)

11 Q. You also testified to the grand jury, I believe.

12 A. Yeah.

13 Q. Accurate?

14 A. I'm not positive of that.

15 Q. You do not remember?

16 A. That's correct.

17 Q. Would it refresh your recollection to look at your
18 testimony?

19 A. Not really.

20 Q. No? Okay.

21 Well, Cuz was the one in the truck with Huevos?

22 A. That's correct.

23 Q. Nobody else?

24 A. No.

25 Q. Not Holiday?

1 A. No.

2 Q. Okay. Now, they stopped for gas?

3 A. Yes.

4 Q. Did anybody scream at the gas station?

5 A. Well, half of us were incapable of making any noise.

6 Q. Did you stick your hand out of the back of the truck or
7 anything?

8 A. No, I did not.

9 Q. Okay. So when you were removed from the truck -- after
10 driving, then, you got gas and you drove, after driving, you
11 were removed from the truck by Cuz, yes?

12 A. Me personally, or the first people?

13 Q. Johnnie Old School was first.

14 A. Yes.

15 Q. And it was Cuz or Huevos who took him out?

16 A. No. Huevos was not. He helped him toss Johnnie off the
17 road.

18 Q. So Cuz appeared to be in charge of the tossing?

19 A. Yeah.

20 Q. And then you testified today that you willingly threw
21 yourself off to avoid being --

22 A. That's correct.

23 Q. -- thrown by them?

24 A. That's correct.

25 Q. Okay. And you testified that you fell about 900 feet.

1 A. A long ways.

2 Q. A long way. All right.

3 Now, in May of 2003, you gave some taped statements to
4 police officers of Pima County regarding this incident.

5 A. A police officer?

6 Q. Is that true?

7 A. Who?

8 Q. A Detective George interviewed you at the Medical Center?

9 A. Yes, that's correct.

10 Q. Okay. And she recorded this?

11 A. I believe you.

12 Q. Okay. Well, I'm not asking you if you believe me. I'm
13 asking you if that's accurate.

14 A. I was unaware that she recorded it, but I was aware that --

15 Q. But you remember talking to her. Okay.

16 Now, that was just, what, 24 hours after the incident
17 or less?

18 A. Much less than that.

19 Q. Okay. And you told her that you fell about 30 or 40 feet?

20 A. I also told her I fell out of a truck.

21 Q. Okay. About 30 or 40 feet down the ravine, though;
22 accurate?

23 A. I, I could not tell you that, but I don't have a problem
24 with it.

25 Q. Okay.

1 A. I was not factual with her.

2 Q. So the 900 you said today is the truth, and the 30 or
3 40 you told her a few hours later was a lie?

4 A. Yeah. It was probably somewhere in between that. I didn't
5 measure it. I've never been back there since. It took me --

6 Q. Okay.

7 A. -- about 40 minutes to climb back up to the road.

8 Q. Sure. Now, you indicated something was fractured in your
9 cheek and your eye socket?

10 A. Yes.

11 Q. Possibly from the gun?

12 A. Quite possibly, or the falling off the mountain.

13 Q. Or the fall. Okay. You had no other broken bones, true?

14 A. Just fractures.

15 Q. Did you get a cast on anything or --

16 A. I didn't ever go back for treatment.

17 Q. Okay. Did -- you didn't break your neck, did you?

18 A. No.

19 Q. So that brace was a precautionary thing?

20 A. I don't know what they put that on there for.

21 Q. Okay. All right. Now, you left the hospital within hours?

22 A. I don't know how long I was there, but I left as quickly
23 after the cops left as I could.

24 Q. Okay. You were concerned about your wife?

25 A. Yes.

1 Q. All right. And then you -- once you situated yourself, you
2 made phone calls?

3 A. Right.

4 Q. And those phone calls you made were from Johnnie Old
5 School's house?

6 A. No. They were from a hotel Inn Suites. We hadn't gotten
7 Johnnie Old School out of the hospital yet.

8 Q. But you did then go to Johnnie Old School's house?

9 A. After the hotel, yes.

10 Q. And you made calls from his home?

11 A. I had already found out from the day before what -- where
12 Angel was.

13 Q. So you were comfortable with Angel and you went to Johnnie
14 Old School's?

15 A. I wasn't comfortable with it, but I had no way of getting
16 there.

17 Q. My question is, when you were at Johnnie Old School's
18 house, you made phone calls?

19 A. To whom?

20 Q. Fat Dog.

21 A. I tried, I believe, from his house, and other people's
22 houses I stayed at later.

23 Q. From Johnnie Old School's phone number?

24 A. Okay.

25 Q. Yes?

1 A. I don't, I don't recall.

2 Q. Well, would it refresh your recollection to look at the
3 grand jury testimony where you testified that you called
4 Fat Dog from Johnnie Old School's house?

5 A. I called him twice. I couldn't -- that's 12 years ago that
6 this happened, you know. I cannot tell you precisely out of my
7 mind where I was when I made the phone calls. I called him
8 twice. Is that really relevant?

9 Q. I don't think that --

10 MS. STOUT: Your Honor, would you instruct the jury --
11 the witness to please answer my question?

12 THE COURT: Just proceed with questions, Ms. Stout.

13 MS. STOUT: Thank you.

14 BY MS. STOUT:

15 Q. Mr. Higgins, you testified before a grand jury --

16 A. Okay.

17 Q. -- under oath --

18 A. Yes.

19 Q. -- that you called Fat Dog from Johnnie Old School's house?

20 A. And that's what I did.

21 Q. Was that the truth?

22 A. To the best of my knowledge, yes.

23 Q. Thank you.

24 Now, you indicated Panhead, what's his name, Panhead
25 Mike?

1 A. Yes.

2 Q. He -- you didn't find him when you were --

3 A. I was told by Two Dogs that all he did was, they get out of
4 the back of the truck and get into the front and ride away with
5 Cuz and Huevos.

6 Q. So you didn't know what happened to him?

7 A. No.

8 Q. He rode away with Cuz and Huevos?

9 A. Mh-hm. And later got his truck back and his motorcycle
10 back.

11 Q. But you didn't know that until later?

12 A. Correct.

13 Q. And you didn't tell the police about Panhead Mike?

14 A. I knew that he wasn't there.

15 Q. But you didn't know where he was?

16 A. Correct.

17 Q. Now, with regard to Ms. Ford, I'm going to -- you had
18 indicated, testified here that you weren't charged with any
19 sort of rape?

20 A. Not convicted.

21 Q. Okay. So in other words, you were charged with rape and
22 sodomy; is that a fair statement?

23 A. I don't know. I believe that's probably true, even though
24 I never got within six feet of her, you know.

25 Q. But you did indicate, too, that when you saw her, you left

1 the room to take a phone call?

2 A. Which would pertain to her directly.

3 Q. Okay. And when you testified before the grand jury under
4 oath in 2010 and told them you were charged with rape and
5 sodomy, you were telling the truth, right?

6 A. To the best of my knowledge, yes.

7 Q. Okay. Now, on direct you indicated you had no idea why
8 you were charged with intimidation; is that accurate?

9 A. I don't believe there were any specifics.

10 Q. Well, you admitted to having a conversation with an
11 undercover agent to murder somebody; is that accurate?

12 A. No. I had several conversations with him where he
13 attempted to solicit murder from Mac and myself. And I believe
14 he later testified that at no time did he ever believe that
15 that was going to happen.

16 Q. So it was all just a game?

17 A. No. I think it was an attempt to implicate Mac or myself.

18 Q. So you think that the federal agencies were setting you up?

19 A. It wasn't federal.

20 Q. It was state?

21 A. Mh-hm.

22 Q. Okay. So you think the state was trying to set you up?

23 A. Yeah. But being as someone put -- I don't know if it was
24 valid paperwork or not, but in my mailbox, pertaining to this
25 person, which I gave to them.

1 Q. But that would have something to do with an intimidation
2 charge; is that accurate?

3 A. I don't know.

4 Q. So you really -- you were charged with crimes and you're
5 not aware of why you were charged with crimes?

6 A. My first plea offer was 63 years, and my lawyer recommended
7 I didn't read that.

8 Q. Sixty-three years, is that what you said?

9 A. Mh-hm.

10 Q. And you ended up getting two years and five months'
11 probation?

12 A. Yes.

13 Q. Now, when you were a member of the Devils Diciples in
14 Tucson for a while before this Heather Ford rape and this
15 Box Canyon incident, you told the grand jury that you were
16 involved, the clubhouse was involved in raising money for
17 cerebral palsy?

18 A. On two occasions.

19 Q. On two occasions. And that you actually had raffles for
20 that?

21 A. Yes.

22 Q. You sold tickets to members?

23 A. To everybody.

24 Q. And to the public?

25 A. Mh-hm.

1 Q. To raise money for the club and for --

2 A. Cerebral palsy.

3 Q. -- cerebral palsy?

4 A. Mh-hm.

5 Q. And you indicated to the grand jury that a citizen actually
6 won a raffle at one point?

7 A. There was -- the whole time I was in there, there were four
8 raffles that they -- twice a citizen won and twice a Devils
9 D disciple won.

10 Q. Okay. And a citizen won a motorcycle at one point?

11 A. Twice.

12 Q. Twice they won a motorcycle.

13 MS. STOUT: Thank you, Mr. Higgins.

14 May I have one moment, your Honor?

15 THE COURT: Yes.

16 MS. STOUT: Thanks.

17 (Brief pause.)

18 MS. STOUT: Thank you very much.

19 THE COURT: Any additional cross-examination?

20 Any redirect examination?

21 MS. MOHSIN: There is, your Honor, but I have to
22 confer with counsel for a moment.

23 THE COURT: Go ahead.

24 (Brief pause.)

25 THE COURT: More discussion?

1 MS. MOHSIN: Just one moment, your Honor.

2 THE COURT: All right.

3 (Brief pause.)

4 REDIRECT EXAMINATION

5 BY MS. MOHSIN:

6 Q. Mr. Higgins.

7 A. Yes.

8 Q. You were asked questions on cross-examination about some
9 statements that you made before the grand jury. Have you read
10 that grand jury transcript before you came here today?

11 A. I don't think in any entirety.

12 Q. Did you read any of it?

13 A. Yes.

14 Q. What portion did you read?

15 A. I couldn't even tell you right now.

16 Q. When did you read it?

17 A. A couple days ago maybe.

18 MS. STOUT: Objection to the -- I object to the
19 relevance. She conducted the grand jury. I mean --

20 THE COURT: No. The question is what -- is not what
21 happened at the grand jury. The question is witness
22 preparation. He was asked on a number of occasions about prior
23 testimony.

24 Overruled. Continue.

25 BY MS. MOHSIN:

1 Q. Sir, were you asked questions about the grand jury
2 testimony or did you read the testimony yourself?

3 A. I just read it.

4 Q. All right. How much of it did you read?

5 A. I can't tell you that right now offhand.

6 Q. All right. I want to direct your attention to some
7 questions you were asked on cross-examination about things
8 being different across the nation. Do you remember those
9 questions asked by the attorney?

10 A. Yes.

11 Q. And do you remember being asked questions about whether you
12 testified in the grand jury about things being different in
13 California and Arizona and Michigan?

14 A. I remember her asking me that. Yes.

15 Q. And do you remember being asked in the grand jury
16 specifically about the taxation policies of the Devils
17 Diciples, as opposed to everything?

18 A. Yes.

19 Q. I'm going to show you what -- page 86 of your grand jury
20 testimony, and I'm going to ask you to read some of the
21 questions and see if that refreshes your memory about what that
22 discussion was about.

23 MS. STOUT: He didn't say he didn't remember anything,
24 your Honor.

25 THE COURT: I agree. The witness hasn't said his

1 memory is exhausted about that topic.

2 MS. MOHSIN: Yes, your Honor.

3 BY MS. MOHSIN:

4 Q. Do you remember the question that was asked of you?

5 A. Are you speaking of the funeral fund?

6 Q. I'm talking about taxes in particular, tax issues, whether
7 you're selling drugs or you're doing something for the club,
8 and you're going to get taxed about it. Do you remember that?

9 MS. STOUT: This is beyond the scope of cross. I
10 didn't ask anything about taxation.

11 MS. MOHSIN: That's the point, your Honor.

12 THE WITNESS: I really don't --

13 THE COURT: It's overruled. It is within the scope of
14 cross.

15 BY MS. MOHSIN:

16 Q. Do you recall those questions?

17 A. I'm not sure. I really am not.

18 Q. I would like to show you your grand jury testimony --

19 A. All right.

20 Q. -- to refresh your memory regarding that series of
21 questions. Would that help you?

22 A. Maybe.

23 Q. I'm going to show you page 86, sir.

24 A. Yeah, I won't argue with that. But I'm not stating it as
25 a fact right there.

1 Q. Rather than talking about what you've read, I'm going to
2 ask you some questions about it.

3 A. All right.

4 Q. When you were -- do you have a recollection now of the
5 conversation or the discussion that took place in the grand
6 jury several years ago?

7 A. Yes.

8 Q. And when you testified on cross-examination that things
9 were different in different chapters of the Devils Diciples --

10 MS. STOUT: I'm going to object. Maybe we had better
11 have a side bar. You don't want a speaking objection, I
12 realize that.

13 THE COURT: Well, I think I've already -- is this the
14 same objection as previous or a different basis?

15 MS. STOUT: The testimony -- I'm sorry.

16 THE COURT: A different basis for the objection?

17 MS. STOUT: She's misconstruing the testimony that he
18 gave. I asked him if there's differences. He acknowledged
19 that there was. Now she wants to direct it into a specific
20 little cubbyhole and that she wants it to fit in and that's
21 just not fair or right. If she wants to ask him about
22 differences in taxation, that's fine, but he said there's
23 differences among the clubs, period.

24 THE COURT: And that's the topic that's being explored
25 now in that --

1 MS. STOUT: Very well.

2 THE COURT: To me, that is not objectionable. It
3 is -- it's reasonably within the scope of redirecting on those
4 matters raised in cross.

5 Go ahead. The objection is overruled.

6 BY MS. MOHSIN:

7 Q. Were you asked questions specifically about taxation within
8 the Devils Diciples as it relates to the sale of drugs?

9 A. Yes.

10 Q. And were you asked specifically about kicking back money to
11 someone like Fat Dog in the club?

12 A. Yes. And I believe I said that I had heard that, but I
13 knew of nothing specific.

14 Q. And were -- when you talk about differences in the club,
15 and you testified about that in the grand jury --

16 A. Right.

17 Q. -- was that, that response related to the question about
18 taxation as opposed to differences generally in the club about
19 everything else?

20 A. What I just read that you handed me, I agree with what I
21 said right there.

22 Q. But the question I'm asking, sir, is: Was that a focused
23 question, the answer that you provided at that time?

24 Whether you agree with it today is a different
25 question. What I'm asking you now, sir, is when you testified,

1 you were asked on cross-examination --

2 A. Right. Right.

3 Q. -- you said once there were differences between chapters,
4 right?

5 A. Yes.

6 Q. Bylaws being different --

7 A. Right. Right.

8 Q. -- and different policies and things like that.

9 And you were asked whether you testified about that on
10 cross-examination about the grand jury.

11 MS. STOUT: That wasn't what my question was. I never
12 said bylaws were different.

13 THE COURT: The jury will remember sufficiently what
14 the questions were.

15 THE WITNESS: Yeah.

16 THE COURT: This is proper subject matter for redirect
17 examination, once again. Overruled.

18 Continue.

19 BY MS. MOHSIN:

20 Q. I am asking you, sir, about the context of your response to
21 the grand jury.

22 A. What I just read --

23 THE COURT: And the question is?

24 THE WITNESS: You're asking me about what you just
25 gave me to read?

1 BY MS. MOHSIN:

2 Q. I'm asking you, when you were asked that question in the
3 grand jury, was there a different context?

4 A. I don't think so.

5 Q. All right. What was your understanding as it relates to
6 the Devils Diciples and taxation?

7 A. I -- just what I said to the grand jury. I've heard of
8 that. I have no personal knowledge of that.

9 Q. All right. And so when you were talking about differences,
10 were you talking about, in that context, in the grand jury.
11 I'm not asking what your opinion is about the larger question.

12 A. In many, in many context. Like, like you said, some had
13 different bylaws. They are just different.

14 Q. All right. Now, I want to direct your attention to the
15 next series of questions.

16 You were asked questions about a communication that
17 you had with a corrections officer in Arizona. Did you know
18 that that conversation was recorded?

19 A. No, I did not.

20 Q. And what was the purpose of meeting with the corrections
21 officer?

22 A. To try to get some help for Angel.

23 Q. Your wife?

24 A. Yes.

25 Q. And was the purpose of that meeting to report threats that

1 had been made to her?

2 A. Yes.

3 Q. Did you provide him with any sort of a letter that you had
4 received?

5 A. Yes, I did.

6 Q. And the conversation that you had with him, there were
7 questions about it in cross-examination about the length of the
8 conversation. Was it a particularly long conversation, do you
9 recall?

10 A. Twenty minutes maybe, I'm guessing. Something like that.

11 Q. And was he talking to you about things, like specific
12 things? What was the purpose of that, that lengthy
13 conversation, however long it was?

14 A. He was going to try to get help for Angel, is what he was
15 going to do.

16 Q. And, and so during the course of that conversation, did you
17 just have a casual conversation with him?

18 A. I felt a lot better. I -- he did a real good job of
19 getting information out of me.

20 Q. All right. And did you talk about stuff, just general
21 stuff --

22 A. Yeah.

23 Q. -- as well as specific stuff?

24 Was it a casual conversation or was it a police
25 interview of some kind?

1 A. No, it wasn't -- it did not seem at all like that. I
2 thought it was off the record.

3 Q. Now, finally, I just want to talk about some of the
4 statements that you made about the travel between the Tucson
5 clubhouse inside of the truck when you stopped for gas and then
6 later in the Box Canyon.

7 You were asked questions about whether you had stuck
8 your hands out or anything at the gas station. When you were
9 at the gas station, were your hands free or were they still
10 tied?

11 A. No, they weren't free.

12 Q. And you indicated that the others in the, in the back, some
13 were conscious, some were not.

14 A. Yeah.

15 Q. Was anyone speaking?

16 A. I was not going to leave them, either.

17 Q. Was anyone talking in this car ride?

18 A. Just Panhead.

19 Q. Just Panhead? Was he talking to you?

20 A. Yes.

21 Q. All right. And after the car ride was finished and you
22 went into the canyon, and you testified about the distance that
23 you fell or -- do you have any idea of exactly how far it was?

24 A. It's a long way. I couldn't -- I'm not -- it took me a
25 long time to climb out.

1 Q. So rather than a distance, would the time it took you be a
2 more accurate description of how far you fell?

3 A. Yes.

4 Q. All right. And how long did it take you?

5 A. Fifteen, 20 minutes, 25 minutes. It was really, really
6 steep.

7 Q. All right. Now, sir, you indicated you had suffered a
8 number of different injuries; is that a fair statement?

9 A. Yeah.

10 Q. You didn't go to the doctor again after the hospital?

11 A. No.

12 Q. How long before you were able to walk without pain in your
13 ribs?

14 A. I'd say it was about two years until I was able to work a
15 full day.

16 Q. Work a full day?

17 A. Yeah.

18 MS. MOHSIN: Okay. Thank you.

19 MR. SABBOTA: Your Honor, I have a couple questions
20 based on the tax.

21 THE COURT: Well, I think it's Ms. Stout's call. Is
22 there any suggested recross-examination? Any new matters that
23 you suggest, in other words, that were raised?

24 MS. STOUT: Sure. Yes, your Honor.

25 THE COURT: What was the new matter?

1 MS. STOUT: The tax.

2 THE COURT: I'm sorry?

3 MS. STOUT: The whole issue of tax was not raised on
4 direct. And I think the answer from the witness ended up being
5 that there are differences, just like I elicited.

6 THE COURT: If you want to ask a few directed
7 questions in that regard, Ms. Stout, you may proceed.

8 MS. STOUT: Thank you, sir.

9 RECROSS-EXAMINATION

10 BY MS. STOUT:

11 Q. I think, sir, that you indicated on redirect exam that you
12 knew nothing about the -- any sort of tax?

13 A. I believe what I said, since I just got done reading that,
14 was I had heard that there was differences; I just had no
15 personal knowledge of that. Isn't that not what I said?

16 Q. Okay. So you had no knowledge of it?

17 A. Other than --

18 Q. Personal knowledge?

19 A. Right. Correct.

20 Q. Rumor?

21 A. You got it.

22 Q. No personal knowledge?

23 A. You got it.

24 Q. And you never had any personal dealings, either, with

25 Fat Dog --

1 A. No.

2 Q. -- did you?

3 A. No, I did not.

4 MS. STOUT: Thank you, sir.

5 THE WITNESS: You're welcome.

6 THE COURT: The witness may step down.

7 Witness excused.

8 (Witness excused, 3:53 p.m.)

9 THE COURT: And next?

10 MR. STRAUS: Your Honor, at this time the United
11 States would call Kenneth Dean Johnson.

12 Oh, your Honor, I think we need a break.

13 THE COURT: Is this that --

14 MR. STRAUS: Yes.

15 THE COURT: -- unscheduled or pre-scheduled recess?

16 A 10-minute recess in the jury room, ladies and
17 gentlemen, 10-minute recess, and we will resume.

18 We were working on the extended recess for the earlier
19 afternoon recess, by the way. Let this be ten minutes and
20 nothing more.

21 (Jury out, 3:54 p.m.)

22 THE COURT: All right. The jury is absent. And you
23 may be seated.

24 Let me just expand very briefly on the 403 findings in
25 which I limited the cross-examination on the psychiatric, the

1 alleged or possible decades earlier statement made to the
2 previous witness, Mr. Higgins, and related to him in a
3 conversation, perhaps, with a correction's officer.

4 The point is that I found that the substance of the
5 intended examination was not particularly relevant to matters
6 at issue here, including matters of credibility.

7 And I found, secondly, and intended to say that to
8 the extent that there is any relevant matter within those areas
9 of inquiry, the danger of confusion and of compounding the
10 confusion with additional questions, additional inquiry about
11 what was meant at each layer of the earlier statements
12 substantially outweighed, in terms of the potential for
13 confusion and essentially distracting the jury from the
14 centrally important issues here, that that danger substantially
15 outweighed whatever minimal probative value may have been
16 found.

17 We'll take a 10-minute recess or less to clean up the
18 jury box (sic) and no one else leaves the room. This is not a
19 break for anybody but the jury.

20 MS. STOUT: Thank you.

21 (Recess taken, 3:56 p.m. - 4:15 p.m.)

22 THE CLERK: All rise. Court is back in session.

23 THE COURT: We're ready for the jury, the last witness
24 in the day. I think we'll go to 4:45, counsel, get some
25 additional work done today, but no later.

1 (Jury in, 4:15 p.m.)

2 THE COURT: All right. The jury has assembled.
3 Others may be seated. The Court recognizes the presence of all
4 defendants and attorneys.

5 And your next witness, Mr. Straus.

6 MS. MOHSIN: Your Honor, at this time the United
7 States calls Kenneth Dean Johnson.

8 THE COURT: Mr. Johnson, raise your right hand,
9 please.

10 (Witness is sworn.)

11 THE COURT: Sit up here in this chair, sir. And scoot
12 your chair up as far as you comfortably can, and put the
13 microphone as close to you as it will fit, reasonably close.

14 All right. Go ahead, Mr. Straus.

15 MR. STRAUS: Thank you, sir.

16 KENNETH DEAN JOHNSON

17 called as a witness at 4:16 p.m. testified as follows:

18 DIRECT EXAMINATION

19 BY MR. STRAUS:

20 Q. Sir, could you state your name and spell your last name for
21 the record, please?

22 A. Kenneth Dean Johnson, J-O-H-N-S-O-N.

23 Q. And do you go by the name Dean Johnson?

24 A. Yes, sir.

25 Q. Sir, how old are you?

1 A. Fifty-four.

2 Q. And what do you do for a living?

3 A. I'm an inventory supervisor.

4 Q. Okay. Did there come a point in time where you lived in
5 Arizona?

6 A. Yes, sir.

7 Q. When approximately was that?

8 A. Back in, I guess, '97. I was there the first time from
9 '93 to '95 and then '97 to 2003.

10 Q. Okay. Let me -- before I go any further, let me ask you
11 this: What is your educational level?

12 A. High school dropout.

13 Q. Okay.

14 A. I have a GED.

15 Q. Okay. Let me direct your attention to 1997. What part of
16 Arizona did you live in?

17 A. Tucson.

18 Q. And at that point in time, were you a motorcycle
19 enthusiast?

20 A. Yes, sir, I was.

21 Q. And during the course of your living out in Tucson, did
22 there come a point in time where you met members of any
23 motorcycle clubs?

24 A. Yes, sir.

25 Q. And what motorcycle club members did you meet?

1 A. Devils Diciples.

2 Q. And how did that, how did that occur?

3 A. They were shooting a movie out in Mescal, Arizona, and I
4 met Doc, and he introduced me to Devils Diciples.

5 Q. Okay. So the jury knows, were you part of that movie in
6 some way?

7 A. Yes. I was an extra.

8 Q. Okay. Extra, meaning one of these background actors?

9 A. Yes, sir.

10 Q. And do you remember what year that was?

11 A. I believe that was in '93.

12 Q. Okay.

13 A. Or '94.

14 Q. And that was the first time you lived out in Arizona?

15 A. Yes, sir.

16 Q. You've got to speak up.

17 A. Yes, sir.

18 Q. And you met Doc. Did that develop into a friendship?

19 A. Yes, sir.

20 Q. And did that continue over time into the second period of
21 time that you lived in Arizona?

22 A. Yes, sir.

23 Q. And through your association with Doc, did you meet other
24 members of the Devils Diciples?

25 A. Yes, sir.

1 Q. And who, offhand, if you can remember?

2 A. I met Riggs, Cuz, Mexican John. I'm sure I met a few of
3 them, I just don't remember their names.

4 Q. And did there come a point in time where you joined the
5 Devils Diciples?

6 A. Yes, sir.

7 Q. And what year was that?

8 A. I believe it was '97 or '98.

9 Q. And how did that occur? Did you ask or were you invited?
10 Or why don't you explain that to the jury.

11 A. It was pretty much wining and dining at first. Everything
12 looked good. The brotherhood looked good. Drugs looked good.
13 Women looked good. And then riding the motorcycle was really
14 looked good.

15 Q. So when you say wining and dining, others are wining and
16 dining you?

17 A. I got to go to parties and other Diciples parties and liked
18 what I saw.

19 Q. You mentioned the term "brotherhood." What do you mean by
20 that?

21 A. I thought it was a brotherhood. I mean, it was supposed to
22 be a family, where you don't steal from your brother, you don't
23 rip off your family, and that just wasn't the case.

24 Q. Okay. You somehow learned later that was not the case?

25 A. Yes, sir.

1 Q. All right. So 1999 -- 1998, I believe you said, you joined
2 the Devils Diciples?

3 A. I believe so.

4 Q. And did you have to prospect before you became a member?

5 A. Yes, sir.

6 Q. How long were you a prospect?

7 A. I believe six months, maybe.

8 Q. Okay. Did you have a sponsor?

9 A. Yes, I did.

10 Q. Who was your sponsor?

11 A. Sweeper.

12 Q. Sweeper?

13 A. Mh-hm.

14 Q. And can you just briefly describe for the jury what, what
15 your prospecting period was like?

16 A. Watching the motorcycles when we went to clubs, helping
17 with security, tending the bar, helping move other Diciples.
18 Pretty much a gopher, doing what they want you to do.

19 Q. Okay. That gopher status, was that a little different than
20 what you had been advertised during the wine-and-dine period
21 that you described?

22 A. From what I understand, I had it easy as a prospect. I
23 heard they were a lot rougher on other ones.

24 Q. Okay.

25 A. It wasn't what I expected, though.

1 Q. All right. And so then you become a, a patched member of
2 the Devils Diciples?

3 A. Yes.

4 Q. Did you receive any kind of patches as part of that
5 process?

6 A. Yes.

7 Q. Center wheel, upper, lower rocker, the whole bit?

8 A. Yes.

9 Q. And at that time, who was the -- were there, were there
10 officers of this particular chapter?

11 A. Riggs was the boss.

12 Q. Okay. To the extent I didn't ask you, you lived in Tucson.
13 Was this the Tucson chapter?

14 A. Yes.

15 Q. And were there any other officers that you can remember at
16 this time?

17 A. I don't remember who was in -- who was the warlord or
18 nothing back then, no.

19 Q. How many members were part of the Tucson chapter?

20 A. I'm thinking five or six, maybe. Seven, maybe.

21 Q. Okay. And you had a motorcycle at this point?

22 A. Yes, I did.

23 Q. What kind of motorcycle did you have?

24 A. I had a -- when I first joined, I had a Sportster. And
25 then in 2000 I got an American Iron Horse.

1 Q. And for those of us in the courtroom who don't know what
2 an American Iron Horse, that is kind of a -- should I say,
3 imitation Harley Davidson, American-looking motorcycle?

4 A. It's an S&S motor. It's a, like a custom bike, I guess you
5 could say.

6 Q. All aftermarket parts?

7 A. Yeah. I guess so, yeah.

8 Q. Who were the -- when you joined, who were some of the other
9 members of the chapter?

10 A. Cuz was there, Mexican John, Doc, Huevos. I don't remember
11 the others' names. I'm sure if you remind me, I'll know the
12 names.

13 Q. Were there dues that you had to pay at that point in time?

14 A. Yes.

15 Q. What were the dues?

16 A. \$70 a month.

17 Q. Okay. Did there come a point in time after you joined that
18 chapter that you became an officer or some kind of titleholder?

19 A. Yes.

20 Q. What, what titles did you hold within the chapter?

21 A. I was treasurer and warlord.

22 Q. Okay. Which came first?

23 A. Treasurer.

24 Q. And what did that entail?

25 A. Collecting the dues, collecting the money from benefits we

1 had, paying some of the bills, if we had any.

2 Q. Okay. And what were some of the bills you had to pay?

3 A. Rent.

4 Q. Do you know who you were paying rent to?

5 A. Cuz.

6 Q. Okay. Did he own that property?

7 A. I believe so.

8 Q. Okay. And was everybody kicking in, in terms of dues?

9 A. No.

10 Q. Okay. You say that pretty emphatically.

11 A. Half of them didn't pay shit. Excuse my language. Didn't
12 pay nothing.

13 Q. Okay. Were you employed during this period of time?

14 A. Yes, sir.

15 Q. And was there equal or unequal kick-in of proceeds into the
16 club?

17 A. Pretty much unequal. The one that had jobs, paid; the ones
18 that didn't, didn't.

19 Q. All right. How long you were a member of the Devils
20 Diciples?

21 A. Probably almost five years.

22 Q. Okay. Now, during that five years, did some other members
23 begin to join the club after you joined the club?

24 A. Yes.

25 Q. Let me throw some names at you: Johnnie Old School?

1 A. Yes.

2 Q. Did he join after you?

3 A. Yes.

4 Q. Golf Clubs?

5 A. Yes.

6 Q. How about Panhead Mike?

7 A. Yes.

8 Q. Any others that you can remember?

9 A. Two Dogs.

10 Q. Two Dogs.

11 Now, can you -- was this chapter, in your opinion,
12 beyond the, the wining -- the lack of brotherhood that you
13 talked about earlier, was there also a lack of cohesiveness
14 within the chapter; if you know what that means?

15 A. Yes, sir, there was.

16 Q. Why don't you tell the jury about that.

17 A. One of the bylaws was you will have a Harley Davidson when
18 you join this club. I think three out of the four others
19 didn't.

20 Q. Three of the four new members?

21 A. Did not have Harleys. And the boss didn't even ride.

22 Q. Who was the boss?

23 A. Riggs.

24 Q. Okay. He was not a rider?

25 A. He might have had a bike, but I never seen him ride the

1 whole time I was there.

2 Q. Okay. And that was definitely a requirement of the Devils
3 Diciples, you had to have a Harley or a --

4 A. I thought it was.

5 Q. Okay. And like you said, you had one, right?

6 A. Yes.

7 Q. Any other issues that arose within the club?

8 A. Seemed to be like two different factions in my chapter.

9 Q. Okay. Why -- how so?

10 A. It was like me, Riggs and -- I mean me, Cuz, and Huevos
11 were, I guess, the better ones as far as following the rules,
12 doing what we got to do. And the other ones did their own
13 thing, smoking dope through the bowl and -- or do the glass,
14 smoking methamphetamines and shooting needles and you weren't
15 supposed to do that.

16 Q. You said quite a mouthful here. Let me break it down.

17 Are there any rules on drug use within the Devils
18 Diciples?

19 A. Yes, there is.

20 Q. What are those rules?

21 A. You don't smoke out of a bowl for methamphetamine. You
22 don't use needles.

23 Q. Okay. Why is that, for, for those of us who don't
24 understand the significance of that?

25 A. I'm just thinking keeping your senses, maybe. I don't

1 know. I mean --

2 Q. Are those more addictive delivery --

3 A. Yes.

4 Q. -- devices for drugs?

5 A. I'm sure they are.

6 Q. And did you see that going on in the club?

7 A. Yes.

8 Q. And with whom?

9 A. Well, I knew for a fact that Riggs' old lady used a needle
10 and that he knew it.

11 Q. When you say old lady, are you talking about girlfriend or
12 wife or --

13 A. Girlfriend. I know Two Dog -- I've heard, well, I heard he
14 was smoking methamphetamine through a bowl. I never witnessed
15 this stuff, I just heard it.

16 Q. Okay. And let's -- just so the jury is clear, let's talk
17 about your own drug use. Had you ever used methamphetamines in
18 your life?

19 A. When I joined the Diciples, yeah.

20 Q. Had you ever used methamphetamines before you joined the
21 Devils Diciples?

22 A. No.

23 Q. Okay. How often were you using methamphetamines while you
24 were a member of the Devils Diciples?

25 A. Quite a bit. Probably on a daily basis.

1 Q. Would you characterize that as an addiction?

2 A. It was definitely a mental one.

3 Q. And who were you getting your drugs from?

4 A. Two Dogs, most of the time.

5 Q. Okay. And do you know where Two Dogs was getting his
6 methamphetamines?

7 A. No.

8 Q. Was there anything else going on in the club or in the
9 clubhouse regarding drugs that, at least to your knowledge or
10 belief, was a no-no?

11 Was there any kind of sales of drugs within the
12 clubhouse?

13 A. There probably was, yes.

14 Q. Do you know for a fact there was?

15 A. Yes.

16 Q. Okay. And do you know whether or not there was any drug
17 production or drug manufacturing going on, either within the
18 clubhouse or the clubhouse property?

19 A. Not as far as none of the clubhouse property, no.

20 Q. Okay. Did you ever, did you ever become aware of Riggs or
21 anyone else making drugs?

22 A. I had heard he was, yes.

23 Q. Okay. So when you talk about your faction, I think you
24 said the good faction and the other faction, what was -- I
25 guess the corollary is, what was bad about that faction beyond

1 what you've told us?

2 A. It wasn't no brotherhood there. I mean, you're not
3 supposed to steal from your brother or take your brother's
4 property, disrespect your brother. They did it all.

5 Q. Okay.

6 A. They did it all.

7 Q. Now, were you -- during your five years with the Devils
8 Diciples, were you physically limited to Tucson or did you have
9 occasion to travel to other chapters within the United States?

10 A. I went to the other chapters, yes.

11 Q. What other chapters did you go to?

12 A. Went to Alabama a couple times and Detroit.

13 Q. How many times did you go to Detroit?

14 A. I believe once.

15 Q. Okay. During the time that you were a member, who was the
16 national president, if you knew?

17 A. Fat Dog.

18 Q. Do you know who the other national officers were during
19 your tenure?

20 A. No.

21 Q. All right. Not much contact with Detroit?

22 A. Not hardly at all.

23 Q. Okay. What about California? Did you, over time, did you
24 learn -- meet some of the members from California?

25 A. Yeah. I went to California a couple times, too.

1 Q. Okay. And did members of California Devils Diciples, did
2 they come visit the Tucson chapter?

3 A. Yes.

4 Q. And who are some of the members that you met from
5 California?

6 A. Little John. I don't remember their names.

7 Q. All right. Did you ever meet someone named Holiday?

8 A. Yes. Holiday, yes.

9 Q. Any others that you can remember?

10 A. I might know them by face, but I don't remember their
11 names.

12 Q. All right. Now, while you're a member, what was the --
13 what was the relationship with the Devils Diciples in Tucson
14 with other motorcycle clubs?

15 A. Pretty good, I guess you'd say.

16 Q. Okay. And were there other motorcycle clubs in the area
17 of, of Tucson or Arizona, generally?

18 A. Yes.

19 Q. Like whom?

20 A. Hells Angels.

21 Q. Okay. And do you know whether or not the Devils Diciples
22 enjoyed a relationship with the Hells Angels at all?

23 A. We used to go to their function, they'd come to ours.

24 Q. Did you ever meet any of the Hells Angels that would come
25 by?

1 A. Yeah.

2 Q. Any ones in particular?

3 A. I don't remember their names, it's been so long ago.

4 Q. Did you meet any of their officers, presidents,
5 vice-presidents?

6 A. I might have.

7 Q. All right. Now, let me, let me direct your attention to --
8 did you ever, did you ever meet or become aware of a woman by
9 the name of Heather Ford?

10 A. I think I met her once.

11 Q. Okay. And when approximately was that?

12 A. I guess in 2003. I can't tell you what month.

13 Q. Okay. And there was actually an incident with Heather
14 Ford, correct?

15 A. Yes.

16 Q. And you remember that time frame in 2003?

17 A. I guess it was around March or April.

18 Q. Okay. And was it before March or April of 2003 or after
19 March/April 2003 that you met Heather Ford?

20 A. Should have been before. Probably March, I think.

21 Q. Okay. And how did you meet her?

22 A. Panhead Mike introduced her to me.

23 Q. Okay. And what was Panhead Mike's relationship with her?

24 A. He was letting her stay at his house.

25 Q. Were they boyfriend/girlfriend or anything like that?

1 A. I don't think -- I think he was just letting her stay at
2 his house.

3 Q. Okay. At the time you met her, did you know whether or not
4 she had any association with any other motorcycle clubs?

5 A. When I first met her, no.

6 Q. Okay. Did there come a point in time where you learned
7 about an incident involving her and other members of the Devils
8 Diciples?

9 A. Yes.

10 Q. How did you learn about that?

11 A. I got a phone call from Panhead Mike.

12 Q. And where were you at the time?

13 A. Florida.

14 Q. And what did Panhead Mike tell you?

15 A. He told me that some -- that girl Heather had taken some
16 stuff from his house. So he told -- I don't know who he told,
17 but they went out to his house, got her and took her to the
18 clubhouse and then proceeded, I guess, to torture her while
19 she was there.

20 Q. Okay. And do you know, do you remember the phone call?

21 A. Sort of. It's been a while.

22 Q. Okay. Do you remember time-wise how soon after that
23 incident this occurred? Did it occur the same day or --

24 A. That, I can't tell you.

25 Q. Okay.

1 A. I know he was nervous when he called me.

2 Q. Okay. And why was he nervous?

3 A. He was probably scared. I don't know.

4 Q. Okay. And did he articulate or tell you why he was scared?

5 A. He didn't say anything on the phone, no.

6 Q. Okay. What was it in his conversation with you that led
7 you to believe he was scared?

8 A. He just said, I don't know what happened. They took it too
9 far. I don't know what they did. They were just kind of
10 panicked.

11 Q. Okay. After this phone call, did you return from Florida?

12 A. Yes.

13 Q. Were you on business or --

14 A. Seeing my grandparents.

15 Q. And when you came back, did you learn more about what had
16 happened at that incident?

17 A. Yes.

18 Q. What did you learn?

19 A. I heard that they went out to his house, got her. A couple
20 girls went out there and got her.

21 Q. Okay. Let me just stop you there. Are you hearing this
22 from other members of the Devils Diciples?

23 A. Yes.

24 Q. All right. Tell the jury what you heard.

25 A. I heard that they went out to -- a couple girls went out

1 to Panhead's Mike house, got the girl, took her kids somewhere
2 else. Brought that girl, Heather, to the clubhouse. They made
3 her get buck naked, tortured her, and then dropped her off at
4 Mac's house.

5 Q. Okay. Mac, did he have a -- did he have a club name?

6 A. Mac Tonight, I think.

7 Q. Okay. Now, did there come a point in time after you heard
8 about this incident where you learned about an association she
9 had with other motorcycle clubs?

10 A. Yes.

11 Q. What was that association?

12 A. That she was Nick's Hells Angels' old lady.

13 Q. Okay. And when do you think you learned about this?

14 A. I don't remember. A week or two.

15 Q. Okay. So in that time frame, what is -- did you -- when
16 you heard about it, was there any significance attached to that
17 information or was it just no big deal?

18 A. At the time, I thought it was no big deal.

19 Q. Okay. And what about the other folks, the other people,
20 Devils Diciples that you are talking about? Were they
21 concerned about that?

22 A. They didn't seem to be.

23 Q. All right. Now, did that change over time, to your
24 knowledge, that concern or lack of concern?

25 A. Well, it wasn't much that long after that, that they came

1 down and took care of the Tucson chapter, so.

2 Q. Okay. They being whom?

3 A. Out-of-town Diciples.

4 Q. And were you there for that event?

5 A. Yes, I was.

6 Q. Tell the jury what, what you remember.

7 A. Standing there on a Sunday and a bunch of out-of-town
8 Diciples came in, all wanting to --

9 Q. You're standing where?

10 A. Outside at first.

11 Q. Outside the clubhouse?

12 A. Yes. And then they all come in and then we all go inside.
13 And then all hell breaks loose.

14 Q. Okay. Let me, let me stop you there. I'll slow you down a
15 little bit.

16 This is a Sunday, and you're at the Tucson Devils
17 Diciples clubhouse?

18 A. Yes.

19 Q. What time of day is it?

20 A. I don't remember. One, two, three in the afternoon.

21 Q. Okay. It's not nighttime?

22 A. Not yet, no.

23 Q. And why are you there?

24 A. Had church every Sunday.

25 Q. Okay. So you assume you're just going to -- you're being

1 | there for church?

2 | A. Just, yeah, weekly meeting, yeah.

3 | Q. And you said a bunch of other people showed up?

4 | A. (Nodding head.)

5 | Q. In your mind, was that expected or unexpected?

6 | A. It was unexpected.

7 | Q. Okay. And who, who were the other folks that showed up?

8 | A. I remember seeing Holiday and Little John. A lot of them,
9 | I didn't even know. And they just came in the clubhouse and
10 | started thumping on people.

11 | Q. Okay. Were they, were they out-of-state people?

12 | A. Yes.

13 | Q. Were they all Devils Diciples members?

14 | A. Pretty sure.

15 | Q. Were they wearing their colors?

16 | A. I think so.

17 | Q. Okay. Is that the normal thing when you show up for
18 | church, you wear colors?

19 | A. Yes.

20 | Q. Are you familiar with the term called "nomad"?

21 | A. Yeah.

22 | Q. Do you know what a nomad is?

23 | A. Yeah.

24 | Q. Tell the jury what a nomad is.

25 | A. I guess it's like an elite Devils Diciples, from what I

1 understand.

2 Q. Elite in what sense?

3 A. I don't know how they -- how they pick them. I have no
4 idea how they choose a nomad.

5 Q. Okay. Do they have a good reputation, bad reputation?

6 A. They ride a lot of miles, from what I understand.

7 Q. Do they have any other reputation in terms of force,
8 physical force?

9 MR. PITTS: Judge, I think he said -- I think the
10 answer to the earlier question --

11 THE COURT: What's the objection?

12 MR. PITTS: Lack of foundation. He said he doesn't
13 know about the nomads.

14 THE COURT: Thank you. Overruled.

15 Proceed.

16 THE WITNESS: Rephrase your question again, please.

17 BY MR. STRAUS:

18 Q. Certainly.

19 You had -- let me lay a foundation.

20 During your five years with the Devils Diciples, you
21 interacted with not only members of the Tucson chapter, but
22 other chapters, correct?

23 A. Yes.

24 Q. And you also met people that were termed -- were called
25 nomads, correct?

1 A. Yes.

2 Q. They were members of the Devils Diciples?

3 A. Yes.

4 Q. And through the course of your membership with the Devils
5 Diciples, you're interacting with other Devils Diciples,
6 presumably interacting with nomads. Did you come to learn of
7 the reputation of nomads?

8 A. Like I said before, I guess they were supposed to be like
9 the elite, meaner part of the Devils Diciples or something, I
10 guess.

11 Q. Okay. Did they have any other role that you know of?

12 A. No.

13 Q. Okay. On the day that you were talking about when the
14 out-of-state people showed up, were there any nomads there?

15 A. Yes.

16 Q. Do you remember who -- any of those nomads?

17 A. Bean was there, but he lived there, so.

18 Q. Okay. Did Bean go by any other name?

19 A. String Bean.

20 Q. Okay. Any other nomads that you remember?

21 A. I don't remember their names, no.

22 Q. Okay. So how many people -- you're outside the clubhouse,
23 correct, when everybody starts showing up?

24 A. Yes.

25 Q. How many people -- how many Devils Diciples ends up showing

1 up?

2 A. I'm thinking 15 or 20.

3 Q. Okay. And do they show up on bikes --

4 A. Cars and trucks.

5 Q. -- cars? Or both?

6 A. Cars and trucks.

7 Q. Okay. No bikes?

8 A. I don't remember any bikes, no.

9 Q. All right. Is that unusual?

10 A. Yeah. Now that I look back on it, yeah.

11 Q. Are you supposed to ride your motorcycle to a church
12 meeting?

13 A. No. You don't have to.

14 Q. Okay. But this was unusual in the sense of people driving
15 trucks and cars?

16 A. Just coming in, period.

17 Q. All right. And did you have any interaction with any of
18 these Devils Diciples, the out-of-state, like, hey, why are you
19 guys here, anything like that?

20 A. They walked -- I just said, hey, what's up? They walked in
21 and walked right past me.

22 Q. Okay. Any interaction when you said, what's up?

23 A. No. What are you doing? Just walked right past me.

24 Q. So what did you do after that? Greet -- is that normal?
25 Aren't you supposed to greet someone?

1 A. Usually, yeah.

2 Q. Is there, is there a certain protocol for Devils Diciples
3 when they see another Devils Diciples?

4 A. If you don't know them, you're supposed to say, I'm
5 so-and-so from Tucson Devils Diciples, and prospect, whatever
6 you are at the time.

7 Q. Okay. And did that occur on that particular day?

8 A. No.

9 Q. All right. So you, I think you said that you went into the
10 clubhouse?

11 A. Yes.

12 Q. And why did you go into the clubhouse?

13 A. They called us all in there.

14 Q. All right. And what do you see when you get into the
15 clubhouse?

16 A. It wasn't but a second and every -- all hell just broke
17 loose. I heard a -- I heard a gun go off. Somebody said, hit
18 the ground. I hit the ground.

19 Q. And were you -- when you say, "all hell broke loose," what,
20 what physically are you hearing and seeing?

21 A. Other Diciples beating up Diciples that aren't from my
22 chapter.

23 Q. Okay. And who was involved in the beating up, if you could
24 see?

25 A. Who got beaten?

1 Q. Yes.

2 A. From what I remember, it was Riggs, Golf Club, Johnnie Old
3 School, Two Dogs, I think Panhead.

4 Q. Panhead Mike?

5 A. Yeah.

6 Q. Were you beaten at all?

7 A. No. No. I was on the ground, and that's when I realized
8 nobody is hitting on me, so I got up and went outside.

9 Q. Okay. How long do you think you were in the clubhouse, how
10 many minutes?

11 A. Two, three minutes.

12 Q. All right. What's going through your mind at this point?

13 A. What's going on? I had no clue what was going on.

14 Q. Okay. Is this something, is this something out of the
15 ordinary or is this something you would have expected?

16 A. I've never witnessed or seen anything like that before in
17 my life.

18 Q. All right. At this moment in time, do you -- I take it you
19 later learn why this occurs, correct?

20 A. Yes.

21 Q. At this point in time when you walk out of the clubhouse,
22 do you have any idea why this is occurring?

23 A. I don't have a clue.

24 Q. Okay. Had you heard any inkling of this occurring?

25 A. Not a clue.

1 Q. All right. So you leave the clubhouse. What do you do?

2 A. I'm standing out in the courtyard.

3 Q. How long do you stand out in the courtyard?

4 A. Probably about 10, 15 minutes.

5 Q. What are you doing?

6 A. Wondering what's going on.

7 Q. Okay. Is there, is there anything going through your mind
8 about getting out of there or --

9 A. Oh, yeah.

10 Q. -- calling the police or doing something?

11 A. Wasn't calling no police, but getting out of there was one
12 of the things, yeah.

13 Q. Okay. You say that pretty emphatically. Why wouldn't you
14 call the police?

15 A. I'd get killed.

16 Q. All right. So after this about 10, 15 minutes, what do you
17 do then?

18 A. I see Panhead Mike's truck going out the driveway. And
19 then I later learned out they took them all out to the desert
20 and dropped them off.

21 Q. Okay. What kind of truck did Panhead Mike have?

22 A. A big yellow one, is all I can tell you. I don't know what
23 kind it was.

24 Q. A fancy one?

25 A. I guess a custom one, yeah.

1 Q. All right. Did you ever go back into the clubhouse that
2 night after that?

3 A. Not that night, no.

4 Q. Okay. You see the truck leave. Do you have any
5 interaction with anybody?

6 A. No.

7 Q. Did you see anyone hitting on anyone when you were in the
8 clubhouse?

9 A. I did see Holiday trying to restrain Two Dogs. I didn't
10 see him hitting him, I saw him trying to restrain him.

11 Q. All right. And when you were outside, did you see any, any
12 hitting going on?

13 A. I didn't see any hitting, but I saw him escorting Golf Club
14 into the clubhouse.

15 Q. Who did you see escorting?

16 A. I don't remember.

17 Q. All right. Golf Club was outside of the clubhouse when
18 this began?

19 A. He was in his room, I believe.

20 Q. All right. Now, at this point in time, were you -- where
21 were you living? Were you living on the property?

22 A. No. I had my own house.

23 Q. Okay. So were there any women on the property at this
24 point in time?

25 A. I think there was Riggs' girlfriend Angel and her daughter.

1 Q. During this incident, did you see them at all?

2 A. I saw them walking up the driveway, I believe.

3 Q. Walking up the driveway or down?

4 A. Down, out of the driveway.

5 Q. Okay. And I take it at some point in time you leave?

6 A. Yes.

7 Q. Did you -- while you were there, before you left, did you
8 ask anybody what was going on?

9 A. There was nobody left.

10 Q. All right. So you're one of the few people left?

11 A. Yes.

12 Q. What about the out-of-towners, did they leave?

13 A. They were gone, yes.

14 MR. STRAUS: Judge, this is probably a logical time.

15 THE COURT: Very good. That's fine.

16 MR. STRAUS: In a sense.

17 THE COURT: Thank you. You can prepare in a moment to
18 leave. A couple of comments for the jury before we do leave.

19 You can have a seat, Mr. Straus.

20 The matter will recess until tomorrow morning at
21 9:00 a.m. on our regular schedule, a full day schedule
22 tomorrow.

23 We're looking at the last several days, the last few
24 days of testimony from the Government witnesses, I am informed
25 this week, perhaps next week. And the case is, from the

1 Government's perspective, we've been told, pretty likely to
2 be winding up.

3 There's some other things that will happen following
4 that with the possible presentation of additional witnesses.
5 There are a number of administrative things that are going
6 to -- that are going to involve delays in -- for any in-court
7 business. So at the end of a trial, it's normal that the
8 ordinary schedule of nine in the morning until break time and
9 so forth, we don't want to adhere to because we have other
10 administrative things, legal matters that have to be discussed
11 with the attorneys. It's not witness presentation for the
12 jury. So you may be waiting some of the time that you were
13 today for various reasons.

14 We'll try to keep that to a minimum and try to
15 schedule times to do that when you're actually not even
16 necessarily here in the courthouse.

17 In the meanwhile, thank you for the -- on behalf of
18 the Court and all of the attorneys and others who have received
19 the special holiday greetings that you've provided to us.

20 I want to say a word about that. We're going to put
21 all of that away tomorrow. It was, it was delightful and it
22 was fun. I want you to remember, however, since we have
23 attorneys involved in receiving these holiday greetings -- and
24 some of them may have children or grandchildren that can use
25 these or even others, if you're going to be bringing more

1 along, more holiday greetings of that kind. But you -- I will
2 remind you, though, through all of the goodwill that is
3 expressed in that regard, you are and you will remain utterly
4 independent from the attorneys and the positions that they
5 represent.

6 You are an independent body. You're independent from
7 the defense attorneys and the defense generally. You are
8 independent from the Government. Independent even from the
9 Court. You are the fact-finders here, and you shouldn't, even
10 with the goodwill that's expressed during the holiday season,
11 quite frankly, you shouldn't lose track of that. And I trust
12 that you will not. I trust that you will maintain your
13 complete independence here, independence of mind and attitude
14 throughout.

15 Thank you for that, ladies and gentlemen. You're
16 recessed until tomorrow morning.

17 COURT REPORTER: All rise.

18 (Jury out, 4:47 p.m.)

19 THE COURT: Does the Government need any record?

20 Does the defense need a record?

21 Okay. We'll see you tomorrow.

22 COURT REPORTER: Court is adjourned.

23 (Proceedings concluded, 4:47 p.m.)

24

25

* * *

CERTIFICATE OF REPORTER

As a Federal Official Court Reporter for the United States District Court, appointed pursuant to provisions of Title 28, United States Code, Section 753, I do hereby certify that the foregoing is a correct transcript of the proceedings in the above-entitled cause on the date hereinbefore set forth.

Dated this 9th day of December, 2014.

s/ Christin E. Russell
Christin E. Russell
RMR, CRR, FCRR, CSR
Federal Official Court Reporter

s/ Rene L. Twedt
Rene L. Twedt
CSR-2907, RPR, RMR, CRR
Federal Official Court Reporter